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ABSTRACT

This is the report of the House Committee on Education and Labor on H.R. 15 to extend for five years certain elementary, secondary, and other education programs. (IRT)

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95th Congress } HOUSE OF REPRESENTATIVES { Report
2d Session } { No. 95–1137

A REPORT

ON

THE EDUCATION AMENDMENTS OF 1978, H.R. 15

TOGETHER WITH

ADDITIONAL AND SUPPLEMENTAL VIEWS

(Including cost estimate of the Congressional Budget Office)

COMMITTEE ON EDUCATION AND LABOR
U.S. HOUSE OF REPRESENTATIVES
NINETY-FIFTH CONGRESS

U.S. DEPARTMENT OF HEALTH
EDUCATION & WELFARE
NATIONAL INSTITUTE OF
EDUCATION

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May 11, 1978.—Committed to the Committee of the Whole House on the State of the Union and ordered to be printed

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95th Congress 2d Session } HOUSE OF REPRESENTATIVES { Report No. 95-1137

EDUCATION AMENDMENTS OF 1978

May 11, 1978.—Committed to the Committee of the Whole House on the State of the Union and ordered to be printed

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Mr. Perkins, from the Committee on Education and Labor submitted the following

REPORT

together with

ADDITIONAL AND SUPPLEMENTAL VIEWS

[To accompany H.R. 15]

[Including cost estimate of the Congressional Budget Office]

The Committee on Education and Labor, to whom was referred the bill (H.R. 15) to extend for 5 years certain elementary, secondary, and other education programs having considered the same, report favorably thereon with amendments and recommend that the bill as amended do pass.

The amendments appear in italic in the reported bill.

SUMMARY OF H.R. 5

H.R. 15 extends for five years with amendment a number of programs which comprise the major portion of Federal aid to our nation's elementary and secondary schools.

H.R. 15 has three basic features:

First, the bill retains the approach which has characterized Federal aid to education since its inception—categorical programs for specific groups and purposes as opposed to unrestricted block grants.

Second, within this framework, H.R. 15 attempts to simplify Federal education programs to make their requirements more understandable, to clarify administrative responsibility at each level, to effect better coordination between the large number of programs that exist, and to cut down greatly on the paperwork involved.

Third, several new initiatives and expansions of existing programs are incorporated into the bill to meet needs which are not being adequately addressed in current law and which are expected to take on greater importance in future years.

More specifically, H.R. 15 includes the following provisions:

—In the Title I compensatory education program (the largest program of Federal aid to elementary and secondary education), additional funds are allocated on the basis of the 1976 Survey of Income and Education instead of the 1970 census, new funds are authorized for school districts in counties with concentrations of poor children, and matching funds are authorized for States which have their own compensatory education programs. The program is strengthened by laying out clearly the relative administrative responsibilities of the State educational agencies and the Federal government. The law is also greatly clarified to highlight the flexibility present to operate local programs. Lastly, a number of new provisions are included to foster a closer coordination between Federal and State efforts to operate compensatory education programs.

—In the impact aid programs (P.L. 874 and 815), an expansion of aid is proposed for school districts with children in Federally-assisted low-rent public housing. Additional aid is also proposed for handicapped children of military and Indian parents. Lastly, payments are restored for children of parents whose place of work is outside the State in which the children attend school and payments are increased for children whose parents work outside of the county in which the children attend school. These last amendments would repeal certain provisions restricting impact aid enacted in the Education Amendments of 1974 (P.L. 93–380).

—Other major Federal programs are also amended. In the Title IV consolidated programs, the funding of guidance and counseling programs is separated out of the library and learning resources section and placed in its own section. The bilingual education program is amended to emphasize the need for careful program planning and to encourage greater Federal efforts to find appropriate models of effective teaching techniques. Changes are made in the Emergency School Aid Act to increase administrative flexibility at the Federal level and to require timely processing of local applications for assistance. Lastly, the adult education program is amended to emphasize functional literacy and to broaden the funding of programs to include those in agencies and institutions other than schools.

—The relatively minor Federal programs are also extensively amended. The Federally-administered reading program is changed to a State-operated program focusing on the improvement of both the mathematics and reading abilities of all types of students. The Special Projects Act is amended to include new funding for cooperative pilot projects between Head-Start programs and local school districts, for programs of population education, and for dissemination of information on effective programs. Increased funding is also provided under the Act for consumer education. The gifted and talented children's, community schools, and women's educational equity programs are all upgraded; and a new program is authorized to encourage disadvantaged youth to pursue biomedical professions. The ethnic studies program is also extended.

—In the area of Indian education, additional funds are provided for school districts educating Indian children residing on or near reservations on the condition that the parents o[illegible]h children be given a genuine opportunity to participate in the f[illegible]ulation and operation of the education being provided. The Bure[illegible]ian Affairs is also restructured in order to permit it to dea[illegible] effectively with its responsibilities.

—Finally, the bill authorizes funds for the States to develop standards by which to measure the competencies of their students in the basic skills; upgrades Federal efforts to assist the States in achieving a greater equalization among school districts in their resources for education; and consolidates and simplifies many of the administrative provisions of current Federal laws in order to bring about a more effective system of administration for all of these programs. The bill also contains provisions strengthening the ability of the National Center for Education Statistics to regulate the control of paperwork; and amends many of the provisions requiring annual applications for Federal aid to permit two-year or three-year applications for aid.

LEGISLATIVE CONSIDERATION

The Subcommittee on Elementary, Secondary, and Vocational Education held 75 days of hearings on the programs contained in H.R. 15, the most extensive set of hearings ever conducted by the Congress on Federal aid to elementary and secondary education. The hearings began on May 10, 1977, and concluded on March 6, 1978.

In order to give a structure to this immense undertaking, hearings were grouped according to subject matter, with one or more days being set aside to deal with the particular issues surrounding each expiring program or act. The hearings opened by focusing on some issues affecting elementary and secondary education in general, such as declining enrollments and declining test scores, and by devoting three days to paperwork problems in all the programs. Following that, hearings were conducted on 18 different programs or subjects.

Some 300 witnesses offered oral and written testimony during this process. In September, one and one-half weeks were set aside for all the major education organizations and associations to give their views and recommendations on H.R. 15.

Included in these hearings were 16 days of oversight and legislative hearings on the subject of Indian education which were conducted by the Subcommittee in conjunction with the Committee's Advisory Study Group on Indian Education. These hearings resulted in the amendments in the bill in Title XI dealing with Indian education.

The Subcommittee met in mark-up sessions on H.R. 15 for six days, beginning on March 8, 1978, and ending on March 21, 1978, with the bill being ordered reported to the full Committee by a vote of 13 to 1. The full Committee considered H.R. 15 in mark-up sessions on April 4 and 5 and ordered the bill reported by a vote of 36 to 0.

EXPLANATION AND JUSTIFICATION OF H.R. 15

TITLE I—COMPENSATORY EDUCATION

Overview

Title I of the Elementatry and Secondary Education Act is the cornerstone of Federal aid to our nation's elementary and secondary schools. With an appropriation of $2.735 billion in fiscal year 1978—the largest of any Federal elementary and secondary program—Title I provides financial assistance to State and local educational agencies for compensatory education for educationally deprived children in low-income areas. Ninety percent of the school districts in the country participate in Title I, and approximately 5.9 million children receive Title I services.

Three essential features have characterized Title I throughout its 13-year history. First, the central characteristic of the program is the way in which it directs funds to districts based on their numbers of low-income children, on the theory that poverty and low scholastic achievement are closely related. When Title I was first enacted in 1965, it was viewed as a response to a crisis in education, as evidenced by the alarming numbers of American youths and adults with basic educational deficiencies. In collecting evidence to determine how to deal with this crisis, the Committee in 1965 observed a strong correlation between the levels of income and educational underachievement. The Committee was also concerned over findings of widespread poverty in the United States and findings that school districts with concentrations of poverty faced great difficulties in supporting even a basic educational program. Consequently, Title I appropriates funds to school districts on the basis of numbers of low-income children.

Once funds reach the school building level, however, all children who are in need of compensatory education services are eligible for the program, regardless of family income. This is consistent with the second characteristic of Title I, its flexibility at the local level. Careful to safeguard States' and local districts' traditional control over education, the Congress deliberately avoided creating a legal framework which is unnecessarily restrictive with respect to the design or delivery of educational services. Rather, the Title I legislation left to local schools the decision as to what educational methods should be used in improving educational opportunities for deprived children.

The only restrictions placed on the funds at the local level are meant to insure the third characteristic of Title I—that the Federal funds are categorical in nature and intended to provide specific types of children in specific areas with special services above and beyond those normally provided as part of the district's regular educational program. The Act contains various administrative, evaluation, and reporting requirements to guarantee that this is the case.

Although various amendments to Title I have been enacted throughout the years to restructure the formula, clarify the relationship between Title I and State and local funds, authorize State programs for disadvantaged students who lacked a local base of support and delineate the administrative responsibilities of participating States and districts, the aforementioned characteristics have remained at the heart of the program.

Title I, then, has several essential purposes: directing substantial amounts of Federal aid to districts experiencing difficulty in funding adequate educational programs due to concentrations of low-income families; providing special services to eligible children to supplement their basic education; and promoting the development of students receiving services.

Early evaluations of the Title I program were critical of program administration and effectiveness; however, these evaluations were not nationally uniform and for the most part addressed only one of the purposes of the legislation, promoting students' academic development.

When Congress last extended Title I in 1974 considerable debate occurred over whether or not Title I was achieving its objectives and this debate was only exacerbated by the lack of conclusive research findings.

Feeling the need for this information to make important decisions in any future sets of amendments, Congress directed the National Institute of Education to conduct a comprehensive three-year study of Title I in the Education Amendments of 1974, P.L. 93–380. In order to insure that an adequate and objective report be presented, Congress stipulated that $5 million for each of the next three years be provided for the study out of the regular Title I appropriations and that NIE be the agency responsible for the evaluation.

The six reports including the findings of the NIE study were transmitted to Congress by September 30, 1977. The Committee has found the quality of the research by NIE to be excellent and has consequently relied upon these reports in formulating amendments to Title I.

ACCOMPLISHMENTS

"Were I required to compress all the data and information (the NIE) has collected into one sentence, I believe it would be safe to say that Title I is working as Congress intended it should," stated Dr. Paul Hill, director of the NIE Compensatory Education Study, in testimony before the Committee. The NIE study represents the first comprehensive evaluation of Title I since its enactment and the Committee finds its conclusion regarding the accomplishments of Title I to be very encouraging.

The first major conclusion of the study showed that Title I does direct substantial Federal aid to areas with the highest proportions of low-income children. Although Title I funding constitutes less than 5 percent nationally of all expenditures for elementary and secondary education. Title I often accounts for one-sixth of the funding in the very poorest school districts. In addition, NIE found that Title I has a greater redistributive effect than other State and Federal aid to education programs. Title I allocated more than five and one-half times as much aid per pupil to the districts with the highest poverty rates as to those with the lowest. Title I also provides slightly more money to districts with small local tax bases than to districts which are able to provide high levels of local spending.

At the school building level, data from evaluations funded by the Office of Education indicate that schools which receive Title I funds tend to have high concentrations of students from poverty backgrounds and high concentrations of poor readers.

The NIE also concluded that Title I funds are indeed being used to provide special additional services to eligible children and that the program is making an important contribution to the educational experiences of disadvantaged children. NIE estimated that two-thirds of every Title I dollar is spent on additional educational programs at the local level, with the remainder providing tax relief or allowing districts to increase other forms of spending. According to NIE, this is the largest amount of direct educational expenditures of any Federal program.

These programs are generally operated at the elementary level, where 20 percent of all elementary school children receive compensatory education services. These students spend, on the average, about one-fifth of the total time available for learning in compensatory instruction.

Three quarters of the funds received by districts are used to provide instructional services, with most of these funds going to reading, language arts, and to a lesser extent, mathematics instruction. Eighty-five percent of all compensatory education students receive compensatory instruction in reading and 44 percent receive compensatory instruction in mathematics. Administrative expenses are not high, averageing about 7 percent of the grant; in addition, the proportion for auxiliary services has declined since the early days of the program to about 5 percent.

According to the NIE, these services do make a distinct contribution to the learning experiences of students. Detailed case studies conducted in 12 districts by the NIE revealed that "Title I students in every district received extra services—either more time in instruction, smaller group size, or more time with highly qualified teachers."

Perhaps the most encouraging accomplishment of Title I uncovered by the NIE is its effect on student achievement. The study indicates that compensatory services can be extremely effective in enhancing the achievement of participating students. First graders in the NIE sample made average gains of 12 months in reading and 11 months in math in the seven-month period between fall and spring testing. Third graders gained eight months in reading and 12 months in mathematics. These gains exceed those reported in even the most encouraging evaluation of previous years, and are especially significant when one considers that without Title I, disadvantaged students usually attain only seven months for each school year of instruction.

National evaluations funded by the Office of Education tend to back up the findings of the NIE. According to testimony of Dr. John Evans, Assistant Commissioner, Office of Planning, Budgeting, and Evaluation, USOE, summarizing findings of OE-supported evaluations, students receiving Title I reading services tended not to fall behind their less-needy, unassisted peers in reading performance during the school year, and in some instances dramatic improvements in reading were observed. In addition, compensatory education students tended to develop favorable attitudes toward themselves as readers and toward reading activities that equalled or exceeded attitudes of their peers.

All of these findings can be contrasted with earlier studies which showed that disadvantaged students fall more and more behind in their achievement levels and become increasingly pessimistic about their ability to improve through education.

Witnesses from State and local educational agencies presented data which supported these conclusions. In Newark, New Jersey, the number of first grade pupils reading at or above the national norm has increased from 31 percent in 1973 to 60 percent in 1977, an achievement which witnesses attributed to experience with the Title I program; the State of Michigan reports that the average achievement gain for Title I children in both reading and math is 1.3 months growth for each month in the program; testimony from the Coordinator of Urban Funded Programs in Rochester, New York, indicates that "Title I has turned around what for a time seemed to be a drift toward increasing numbers of pupils below minimum competence in reading and math." In 1971, 43 percent of third graders in Rochester scored below minimum competence levels in reading and math. In 1976, these figures were reduced to 29 percent below minimum competence in reading and math.

These examples, plus others too numerous to mention, conclusively demonstrate that Title I has matured into a viable approach for aiding the disadvantaged. This is not to say that because it is achieving its purpose, Title I is no longer necessary. If anything, witnesses generally felt that more funds are required to enable Title I to reach all educationally-deprived children. According to the NIE, only two-thirds of students in need of services in Title I eligible elementary schools are being served. In addition, fewer than 1 percent of high school students receive Title I services, although the program was designed for both the elementary and secondary levels. Because of limited funding, districts can serve only those children who score well below the 50 percentile in achievement, although students whose performance is just below average could benefit from additional help. Similarly, it is often not possible to keep children in the program after they begin to make achievement gains because other more needy children require services.

In addition, inflationary trends are continually driving up the cost of providing adequate educational services. With a decrease in the percentage of successful bond issues to raise local levies for support of education and with declining enrollments generating lesser amounts of State aid, many districts are having trouble keeping their doors open.

Districts with high concentrations of poor children are particularly hard hit by these fiscal problems; yet, these districts receive less Title I money for each poor child. With public school expenditures totaling over $66 billion, Title I represents less than 5 percent of public school operating budgets. Seventy-five percent of the nation's school districts receive less than 3 percent of their budgets from all the ESEA programs, and in only 11 percent of the districts do the programs contribute more than 7 percent of total school budgets. Therefore, the Committee has extended the Title I program for five more years and is heartened by the funding increases proposed by the President. In doing so, the Committee has relied on the testimony of hundreds of witnesses that the goals of the program are sound and that the need for a Federal commitment to disadvantaged children has not diminished.

With recent evaluations showing progress, the Committee has concluded that now is not the time to depart from Title I's basic philosophy. Rather, this year represents an opportune time to "fine-tune" the program, to clarify any provisions which are causing problems, and to relieve some of the restrictions hampering the effectiveness of the program.

Thus, the Committee bill contains a complete rewrite of Title I which preserves its basic features but which more logically structures its present requirements. H.R. 15 reorganizes Title I into six parts: Part A—programs operated by local education agencies, Part B—programs operated by State agencies, Part C—State administration, Part D—Federal administration, Part E—payments, and Part F—general provisions. Following is a detailed discussion of each of these major parts and the amendments contained in them.

PART A—PROGRAMS OPERATED BY LOCAL EDUCATIONAL AGENCIES

Most of the Title I appropriations—81 percent according to the NIE—goes to local educational agencies (LEAs) to operate compensatory education programs; these programs are central to the accomplishment of the purposes of Title I. Part A of the present Title I statute contains the allocation provisions for the Title I LEA program, as well as for the Title I State-operated programs. Other requirements governing the LEA program are scattered throughout the Title I statute. The Committee feels a more logical and consistent approach would be to incorporate all the requirements pertaining to the LEA program, and this program only, into a separate part of the legislation. H.R. 15 reflects this approach.

(1) Title I formula

The present Title I formula provides that local school districts are entitled to grants based on the number of eligible children multiplied by a cost factor of 40 percent of the State's average per pupil expenditure, except that no State's cost factor can exceed 120 percent of the national average per pupil expenditure nor fall below 80 percent of the national average. Because Title I is not fully funded, in 1977 districts received only 16 percent of the average State expenditure, rather than 40 percent. Children eligible for counting in determining school district grants include children aged 5–17, inclusive from families below the Orshansky poverty level as counted in the 1970 census; two-thirds of the children aged 5–17 from families receiving payments under the Aid to Families with Dependent Children (AFDC) program which payments must total more than the current poverty level for a non-farm family of four; and children aged 5–17 being supported from public funds who live in foster homes or in institutions for neglected or delinquent children and depend on school districts for education services.

The data required for the formula are readily available for the entire nation only to the county level. Consequently, the Office of Education applies the formula only to this level and gives States the responsibility for allocating county grants to school districts, in cases where school districts are not coterminous with countries. In carrying out this responsibility, States must base allocations on counts of low-income children and use procedures and data approved by the Commissioner of Education.

This formula represents the outcome of considerable debate in 1974, when Congress attempted to find a way to deal with imbalances resulting from the growth of AFDC children counted for the program without penalizing States which relied heavily on the counts of these children to reflect true concentrations of poverty. Although a majority of witnesses testifying before the Committee recommended retraining the current formula, it ought to be noted that the current approach is not without its problems.

According to the NIE study of the current formula, 90 percent of current Title I eligibles are children counted from the 1970 census and determined to be poor according to the Orshansky index; 6.9 percent of Title I eligibles qualify under the AFDC measure. This represents a reversal from 1974, when AFDC children comprised over 60 percent of the Title I eligibles. The NIE also found that AFDC eligibles are unevenly distributed throughout the country. Approximately 75 percent reside in five States, whereas 11 States cannot now count any AFDC children for purposes of Title I. By the same token, urban areas within these States rely more heavily on AFDC children in their Title I counts than non-urban areas; AFDC children generate some $36 million in Title I funds for the nation's largest cities.

As a consequence, representatives of some large city school districts testified that in moving from a full count of AFDC children to counting two-thirds of these children, their districts lost a significant amount of funds and programs suffered as a result. According to the Council of Great City Schools, Title I allocations to the nation's 26 largest school districts were $23 million less in 1977 than in 1974. Testimony from the Superintendent of the Detroit City Schools noted that while large numbers of AFDC children in Detroit are not counted for formula purposes, these children nevertheless require special services and place a burden on the school districts.

Consequently, the Committee has adopted an amendment which would fully count AFDC children for formula purposes. This amendment would take effect for fiscal year 1980 appropriations.

A second problem with the existing formula involves the fact that the 1970 census data is now over eight years old; the 5–17 year old children counted in this census are now 13–25 years old. Undoubtedly, there have been significant shifts in the poverty population in the past eight years. However, any criticisms of the formula on these grounds are checked by the fact that no other recent statistical base is available which gives more accurate counts of poverty for the entire country down to the local level than does the 1970 census.

To deal with this problem, the Congress commissioned two studies in 1974 to furnish updated poverty counts. The first study, called the Survey of Income and Education, surveyed 151,000 households in 1976 in an attempt to obtain more recent data on numbers of poor children in each State. The principal finding of the SIE data is of a shift in the distribution of the poor from the South and West North-Central States toward the Northeast and Great Lakes regions, although the South continues to be the poorest region of the country.

A Committee hearing focusing on the SIE data revealed that the data had two limitations. First, SIE goes down only to the State level; witnesses from the Census Bureau which conducted the survey said that any efforts to make local estimates from that data would result in significant inaccuracies. Thus, if the SIE were used for Title I allocations to the State level, another means would have to be chosen to allocate funds to the local level. Second, certain anomalies seem to exist in some of the State totals.

However, compared to the current use of the 1970 Census 20 percent sample, Estimating Children in Poverty, a Department of Health, Education, and Welfare report mandated by sec. 822 of the Education Amendments of 1974, (Public Law 93–380) concludes that:

> On balance, in any case, the SIE is generally believed to provide the more reliable estimate of children in poverty for 1975. . . . The limitations of the SIE survey, both in terms of the sampling variability and the possible survey error, are found to be small relative to the changes in poverty since the 1970 Census.

A second study mandated by Congress and conducted by H.E.W., the Measure of Poverty, examined ways of improving the accuracy and currency of the present measure of poverty used in Title I. This study found that the Orshansky poverty index has a number of limitations—for example, it ignores in-kind payments, makes what may be artificial distinctions between farm and non-farm families, and relies on an arbitrary ratio of food costs to total income. However, the study did not recommend any alternative definition to the Orshansky index.

The NIE study also examined some popular alternatives to the present poverty index, many of which involved raising the poverty cutoff so that some truly needy individuals who are not now recognized as poor would be counted. NIE concluded that increases in the poverty level would generally have little regional impact in the West, would decrease the South's share by a slight amount, and would increase the North Central and Northeastern States' share, although particular States might exhibit different trends from their regions.

Recognizing the problems inherent in defining poverty, the committee proposes to base the allocation of funds appropriated above fiscal year 1979 allocation levels on a definition of poverty as 50 percent of the national median income for a family of four. This benchmark includes persons in many areas of the country who are needy, but who would not be counted as poor under the Orshansky index. These funds would be distributed based on the population estimates provided by the Survey of Income and Education.

The Committee feels that in considering changes in the Title I formula, certain realities must be kept in mind. First, that no formula yet devised can perfectly reflect the true distribution of poverty for every district in the nation. Second, that the formula is a mechanism for targeting funds to areas that appear to be in greatest need and that the decisions regarding which students participate and how programs are operated are equally important. And third, and perhaps most important, districts depend on a certain degree of stability in allocations from year to year, so that they may plan and operate their programs in an orderly fashion.

In an attempt to balance all of these factors and in an effort to bring about the fairest possible distribution of funds, the Committee proposes the following amendments. First, all funds appropriated for Title I district grants up to the level of appropriations provided for fiscal year 1979 would be distributed in accordance with the present formula, with the only modification being the provision mentioned above for a full count of AFDC children instead of a two-thirds count. Second, any appropriations in excess of the fiscal year 1979 appropriations for the regular program would be distributed using the SIE as a population estimate, and 50 percent of national median income as a poverty definition. Third, any State which shows more than a 25 percent decline in its number of poor children using these data must have its grant determined using an alternative to the SIE count. Fourth, all funds within each State would be distributed to local school districts on the basis of the current formula used in that State.

The committee acted carefully in assembling the composite Title I formula contained in H.R. 15. The amendments discussed above which were adopted by the Committee affect a $227 million increase in grants to local school districts (Title I, Part A) proposed by President Carter for allocation in fiscal year 1980, and additional increases in these grants in future years. By using 50 percent of the national median income to define poverty, and the Survey of Income and Education (SIE) of 1976 to estimate the population base, a more equitable distribution of Title I funds will be realized through the Committee's approach.

These adjustments are a significant step in insuring the fair distribution of Title I funds. The SIE data provide a more accurate State-level estimate of children in poverty than data from the 1970 Census. Subcounty allocations will be distributed by the same method as now used in each State, so that each school district will receive the same proportion of these funds it receives of other Title I funds. Thus, the formula will not increase administrative burdens, nor will it result in the unintentional slighting of the real needs of any area.

(2) Subcounty Allocations

The flexibility permitted States in making subcounty allocations provides an opportunity to use data more current than the Census counts; however, the Congress has always stressed that subcounty allocation procedures should be philosophically in keeping with the Federal formula and should treat similar districts consistently.

The NIE found that of the 46 States that must allocate county grants to districts, 24 attempts to replicate the statutory formula, 10 emphasize 1970 census data, five rely solely on AFDC, and seven use unique formulas, involving such factors as free lunch counts, local school surveys, State income tax, and 1960 census data.

Nationally, 73 percent of Title I grants to school districts are subject to subcounty allocation procedures because districts are not coterminous with counties. The complexity of the subcounty allocation process varies. For example, in four States, the State educational agency must arrange to allocate grants to 700 or more school districts in several hundred counties.

In States such as these, the temptation to violate the law and ignore county allocations entirely appears to be great. The Secretary of Education from Pennsylvania testified that subcounty allocations in States, such as hers, with large numbers of school districts crossing county lines produces excessive computations at the State level because different children in the same district are worth varying amounts per pupil.

In fact, the NIE found that several States do pool all county grants and allocate funds to each district based on its share of the State's eligible formula.

CHILDREN

The NIE concluded that "this practice violates the basic Title I statute and the regulations, but it could produce results wholly consistent with the intent of both if the data used closely reflect the incidence of formula-eligible children."

Consequently, the Committee has adopted a limited amendment which permits States to allocate funds directly to school districts and to ignore county allocations. The limitations in the amendment are that the Commissioner may only give this authority to a State for one-year at a time so that there is constant Federal supervision of the process, that the factors used by the State in making its allocations must be the same as those used in Title I (section 11(c)), and that there must be an appeal process so that dissatisfied school districts can have a review of their allocations made by the Commissioner.

(3) Excerpts from NEI report

For the information of the Members, the Committee would like to include the following extensive excerpts from the NIE report regarding the allocation of funds in Title I:

> *Allocations to States and school districts*
>
> Title I currently provides over $2.3 billion for elementary and secondary education in the form of grants to LEAs and to state education agencies (SEAs). The title has two sections: Part A, funded at $2.25 billion in fiscal year 1978, provides grants to LEAs, SEAs, and to the Bureau of Indian Affairs (BIA); and Part B, funded at $24.8 million, provides grants to States with "high effort" and money with which States select and support special projects run by LEAs. (High-effort States are those in which the ratio of non-Federal expenditures on education to personal income is high.) Table I shows how funds under both Parts A and B are distributed among various programs.
>
> An LEA's allocation under Part A is determined by a formula. For each school-aged child from a low-income family, the LEA is entitled to a Federal grant worth 40 percent of the average per-pupil expenditure (APPE) in that State. An LEA's entitlement, therefore, is computed by multiplying the number of formula-eligible children by the cost factor of 40 percent of the State's APPE. However, no State's cost factor is permitted to exceed 120 percent of the national APPE; nor

can any State's cost factor fall below 80 percent of the national average. Because the appropriations for Title I fall short of the level of authorization, LEAs do not receive full entitlements of 40 percent; they received only about 16 percent of the state expenditure for each eligible child in 1977.

TABLE 1.—TITLE I ALLOCATIONS FOR FISCAL YEARS 1977 AND 1978[1]

[In millions of dollars]

	1977	1978
Title I—Pt. A:		
LEA grants:		
50 States and District of Columbia	1,653.5	1,851.5
Puerto Rico	46.8	53.0
Outlying areas	3.2	([2])
Grants to State agency education programs:		
For handicapped children	111.4	121.0
For migrant children	130.9	145.8
For children in institutions for the delinquent	19.0	19.5
For children in adult correctional institutions	7.8	8.3
For children in institutions for the neglected	2.0	2.0
Grants to the Bureau of Indian Affairs	17.6	([2])
Grants to SEA's for administration of title I	21.2	23.4
Subtotal, pt. A [3]	2,013.5	2,247.3
Title I—Pt. B:		
Special incentive grants to LEA's	24.5	24.5
Special grants to SEA's for administration of pt. B	.2	.2
Subtotal, pt. B [3]	24.8	24.8
Other:		
Evaluation and studies	11.5	12.3
Adjustments and undistributed funds	.2	.7
Subtotal, other	11.7	13.0
Total [3]	2,050.0	2,285.0

[1] The funds allocated in title I are appropriated in the budget for the prior fiscal year.

[2] An allocation of $22.3 million will be shared by BIA and outlying LEA's when the appropriate division has been determined.

[3] Figures do not balance because of rounding.

There are several categories of eligible children.

Children aged 5 to 17, inclusive, from families below the Orshansky poverty level as counted in the census.[1]

Two-thirds of the children aged 5 to 17 from families receiving payments, under Aid to Families with Dependent Children (AFDC), which total more than the current poverty level for a nonfarm family of four

Children aged 5 to 17—being supported with public funds—who live in foster homes or in institutions for neglected or delinquent children and depend on LEAs for educational services

The data required for the formula are readily available for the entire Nation only to the county level. As a result, the U.S. Office of Education (OE) applies the mandated formula only to this level, and it delegates to the States the responsibility for allocating county grants to LEAs, in cases where LEAs are not coterminous with counties. These subcounty allocations, which affect most LEAs, must be based on counts of low-income children, and States are required to use procedures and data approved by the Commissioner of Education.

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[1] The Federal poverty definition, named for its developer Mollie Orshansky, sets poverty-level incomes by estimating the costs of adequate diets for different sizes and types of families and the typical costs of other goods and services relative to food expenditures. It includes 124 different poverty lines and was incorporated into the Title I formula in 1974.

In making subcounty allocations, States possess broad discretion over the data they use; however, the data must further the purposes of the ESEA in directing funds to low-income areas.

The flexibility permitted States in selecting data sources for subcounty allocation provides an opportunity to use data more current than the census counts, which largely control the allocation of funds to the county level.

County and school district boundaries coincide completely with each other in only four States: Florida, Maryland, Nevada, and West Virginia. Therefore, in these States and the District of Columbia subcounty allocation is not required.

In the remaining 46 States, the complexity of the subcounty allocation process varies. In Louisiana, subcounty allocation involves only two parishes (or counties) and four school districts. On the other hand, in Illinois, California, New York, and Texas, each SEA must arrange to allocate grants to 700 or more school districts within several hundred counties. Illinois alone has 1,040 school districts, only 10 of which are coterminous with county boundaries. Fully one-third of Illinois' school districts cross county boundaries; in each case, the SEA is required to allocate portions of two or more county grants to the same district. Nationally, 73% of Title I grants to LEAs are subject to state-defined subcounty allocation procedures.

Of the 46 States that must perform subcounty allocation, 24 chose to replicate the Federal formula in their subcounty allocation procedures.

22 States in 1976–77 used formulas or definitions of eligibility in subcounty allocation that differed from those used in the Federal formula. Ten of these States use formulas that emphasize 1970 census data and thus, are similar to the statutory formula. They are:

- Indiana and Virginia, which use 1970 census data alone
- Washington, which uses 1970 census data combined with annual state updates to reflect shifts in population
- Colorado, which combines 1970 census data with the total number of AFDC children
- Vermont and Connecticut, which use 1970 census counts combined with the total number of AFDC children above poverty
- Georgia, which uses 1970 census data plus one-third of total AFDC children
- Hawaii, which uses 1970 census data plus two-thirds of total AFDC children [2]
- Nebraska and Utah, which use 1970 census data plus total AFDC children

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[2] The entire State of Hawaii is technically one school district. However, Hawaii allocates its funds among several administrative units, which correspond to its four counties and to four areas of Honolulu.

Five States—California, Massachusetts, Missouri, Montana, and Wyoming—ignore census data entirely and allocate county grants to districts solely on the basis of AFDC counts.

Seven States use procedures or formulas that cannot readily be compared with the statutory formula. Alabama, North Carolina, and Louisiana do not use a statewide formula. Instead, within each county, school superintendents agree on the data source used to allocate funds within that county; data sources include free lunch counts, local school surveys, 1970 census data, 1960 census data, and AFDC counts. Superintendents in Alabama can use ADA, census data, and free lunch counts. Similarly, in North Carolina, superintendents apparently use census data, free lunch counts, and local knowledge of poverty concentrations. In Louisiana, a fixed-percentage allocation, which is still in use, was determined in the late 1960's, most probably on the basis of 1960 census data.

Arkansas utilizes current counts of AFDC children plus free lunch data; Delaware uses 1971 counts of AFDC children in families receiving more than $2,000 per year; and Arizona uses 1970 census data but counts only children at or below the poverty level of $3,000. Iowa uses counts prepared from state income tax returns coded by school district, and combines them with counts of AFDC children.

Iowa, like three of the States that replicate the Federal formula—Minnesota, North Dakota, and Oregon—reports that it ignores county boundaries entirely in making district allocations. For this procedure, frequently termed "substate" allocation, the State pools all county grants and allocates funds to each district based on its share of the State's eligible children. This practice violates the basic Title I statute and the regulations, but it could produce results wholly consistent with the intent of both if the data used closely reflect the incidence of formula-eligible children.

In summary, 24 States attempt to replicate the Federal formula in subcounty allocation; 10 States employ formulas similar to the Federal formula; 5 assign county grants among school district solely on the basis of the districts' AFDC population; and 7 use poverty formulas unrelated to the Federal formula or procedures that differ among counties.

According to the survey results, school districts employ various poverty measures to determine which schools are eligible for Title I funds. Table 24 indicates the kinds of poverty measures currently used by school districts to count the number of poor children in school attendance areas.

TABLE 2.—*Poverty data used to determine school eligibility*

	Percent of districts using
1970 census data on family income	67
Free lunch and/or free breakfast counts (USDA)	66
AFDC children	51
Other economic data (e.g., public housing statistics, unemployment records, and district surveys of economic need)	34

The three sources of poverty information most commonly used to identfiy Title I—eligible schools are 1970 census data, current AFDC counts, and counts of free lunch recipients. At least seven other indicators are used occasionally. The fact that the entries in the table add up to far more than 100 percent indicates that many districts employ more than one source of data to determine school eligibility.

The regulations were written to allow districts to choose among several types of data because it was believed that no single data source was generally available; the survey results confirm that belief. In some areas, county welfare offices are apparently unwilling to help district administrators determine the number of children in AFDC families on a school-by-school basis. Therefore, AFDC data cannot always be used. Generally, 1970 census data is available only for large districts; even those districts have turned to other data sources as the census has become outdated. The number of free lunch recipients is the most readily available source of poverty data for most school districts.

After target schools are identified, districts must still decide how much money will be allocated for Title I services. As noted above, the regulations provide very little guidance to LEAs in making this determination, beyond requiring that services be concentrated on a limited number of students in greatest need. Districts must make difficult decisions that balance the kinds and costs of services they wish to provide against the number of students they wish, or are able, to serve.

In making these resource allocation decisions, almost half the districts (45%) attempt to distribute Title I resources to match the number of students receiving Title I services in particular schools. Because student participants are selected on the basis of educational criteria, this means that the school districts allocate resources to target schools roughly in proportion to their numbers of low-achievers, rather than of poor children. Other districts distribute their Title I funds in proportion to the number of low-income students in each target school. The rest of the districts use extremely vague rules for allocating resources, and the level of funding per child might vary substantially from school to school. Some district personnel speak generally about focusing on the "greatest educational need" or relating resources to the "severity of the problem." One district apparently decided to fund a program in one school because the school had an unused classroom that could be used for pullout purposes. Another asked school principals how many teachers they needed and negotiated among them until all were satisfied with the final decision.

(4) Treatment of Puerto Rico

Present law stipulates that Puerto Rico's Title I allotment is derived by using the Commonwealth's average per pupil expenditure and the other Federal formula factors; however, Puerto Rico is excluded from the 80% floor that governs allocations to the 50 States, even though its average per pupil expenditure is only about 40% of the national average.

The Committee feels that Puerto Rico's limited funding is inappropriate in view of the very poor educational and economic conditions facing the island. Of the 710,000 children in public schools in Puerto Rico, 87 percent come from poor families. The median years of school completed in Puerto Rico is 6.9, compared with over 12 on the mainland. The system is also plagued with substandard physical facilities and severe overcrowding, resulting in double shifts for 15 percent of the children in grades 1 through 3. The Commonwealth already allocates one-third of its treasury revenues to education, so increased funding cannot be expected from this source.

Consequently, the Committee proposes an amendment which would increase Puerto Rico's allocation by permitting it to multiply its count of children by the product of 32 percent of the average per pupil expenditure in the U.S. multiplied by the percentage which the Commonwealth's per pupil expenditure is of the lowest State's expenditure. However, the Commonwealth is held to no more than 150 percent of the grant it received in any previous year.

(5) Incentive grants

Although the Federal government has made a commitment to improving the educational opportunities for disadvantaged children, States also have a responsibility for the effective education of these children, inasmuch as 44 percent of revenues for education come from the State level. In recent years a number of States have recognized this responsibility by initiating State compensatory education (SCE) programs.

As of fiscal year 1976, 16 States were allocating more than $364 million for identifiable programs to educate children disadvantaged by virtue of poverty, language, achievement lever, or location. The NIE in its report on Title I administration concluded that these State compensatory education programs "are effective partners with Title I."

Testimony from State representatives involved in State compensatory programs demonstrated how the State and Federal efforts can complement each other. For example, in some Ohio districts Title I funds are used to provide instructional services while State funds support auxiliary services. In other areas, State funds extend compensatory services to more students.

While there is currently an incentive provision in Part B of the statute designed to reward States whose total tax efforts for elementary and secondary education exceed the national average, this program has not generated significant incentives. By definition, half the States are excluded regardless of intra-State improvements: only 14 States have consistently received Part B funds and their entitlements do not remain constant. Furthermore, no funds were requested or appropriated in fiscal year 1978 for this program.

The Committee feels that an incentive program which encourages and rewards States for providing supplemental aid to Title I would be more consistent with the goals of Federal aid and would more directly insure that needy children receive adequate services. The Committee recognizes, however, that a wide variety of State aid programs exist—from those providing general aid, to those supporting general services for specific types of children or age groups, to those which provide supplemental services to target children similar to Title I. Therefore, the Committee sees the need for some qualifying standards to insure that State compensatory programs which are determined to be eligible are consistent with the purposes of Title I.

Consequently, the Committee has adopted an amendment to Title I creating a new program of supplemental Title I assistance to the States which have compensatory education programs for educationally-deprived children meeting the requirements specified in section 41(b) and in which at least half of the State funds in a qualifying school district are expended in schools with high concentrations of poor children. This new program would provide an additional dollar under Title I to such States for every $2 of their own funds which they spend in these types of programs. These extra Title I funds would be distributed within State among local school districts in the exact same proportions that these school districts receive their regular Title I funds; and these extra dollars would be spent in exactly the same way that the local school district chooses to spend its regular Title I funds, with no additional requirements on these funds being added on by the State or OE. The Committee wishes to emphasize that States participating in this incentive program would still retain flexibility in allocating their own funds. Participating States may allocate their State funds according to educational criteria, economic criteria, or both. There is no requirement for a State to change the method by which it allocates its own funds as long as the funds are used for compensatory education and meet the requirements specified in section 41(b) and in section 21.

No State could receive a supplemental grant which exceeds 10 percent of the amount it would receive if section 11 of Title I were fully funded, and such sums as may be necessary are anthorized to be appropriated for fiscal year 180 and the three succeeding fiscal years for this purpose. The Committee hopes that this new program encourages the States which have not already done so to mount their own efforts in compensatory education so that all children who need extra assistance will eventually be served, either through Title I or through State programs.

(6) Concentration provision

During its deliberations on Title I, the Committee repeatedly heard testimony about the problems which districts with high concentrations of poor children—both urban and rural—face in trying to support an adequate educational program.

First, these districts have been particularly hard hit by the financial crisis that has plagued many school districts in recent years as the cost of education has risen. Progressive lowering of taxable values, difficulty in passing bond isues, and progressive increases in the costs of other municipal services have all threatened to close the doors of a number of large urban school districts. Declining enrollements have taken their toll on both large urban and poor rural districts: while the amount of State aid does decline proportionately as numbers of children decrease, some of the fixed costs associated with providing education do not.

Second, current payment rates based on State average per pupil expenditures do not adequately take into account the higher costs of major city districts or the lower tax base and economics of isolation associated with rural districts. Major city teacher salaries are 23% higher than the national average, while the per capita tax base in center cities is generally lower than average. On the other hand, the NIE study showed that Title I aid per formula child is lowest in poor rural districts because these districts, in addition to having heavy concentrations of low-income children, also are located in States which tend to have the lowest educational expenditures. Yet, These low levels of support for basic education tend to mitigate Title I's compensatory efforts.

Third, a number of studies indicate that concentrations of poverty have a negative effect on individual achievement and require more intensive remedial programs. Secretary Califano, in supporting the concept of targeting additional funds to these areas, noted in his prepared testimony that national studies show that the prevalence of low achievement among low-income children is really 25% higher in big cities than for similar children in small cities and that students from low-income families in high poverty urban and rural areas do less well than students from poor families in suburban communities.

Consequently, the Committee has proposed an amendment to Title I which authorizes $400 million for supplemental grants to school districts in counties with large concentrations of poor children. The exact qualifying criteria are that a county must either have 5,000 poor children or have poor children constituting at least 20 percent of the total number of children aged 5 to 17 in school districts in the county. In those situations where school districts are not coterminous with counties, these funds are to be distributed within county by the State educational agency to local school districts on the basis of the number of poor children in such school districts whose families are at an income level selected by the State as meeting the purposes of Title I.

These funds, like incentive grants, would be spent by local school districts as regular Title I funds, without any new requirements or conditions being placed on their use by the State or Federal government. Although the introductory part of this section in the committee bill (section 22(a)) refers to programs for basic skills, this reference is merely meant to be precatory, without there being any congressional intent that these words would authorize any new requirements being placed on the use of these funds.

(7) Application

A major thrust of H.R. 15 is to reduce the amount of paperwork required for Federal education programs. (This is discussed thoroughly in a later section of this report.) A number of witnesses at the hearings held specifically on paperwork problems suggested that some of the Title I application and assurance requirements created unnecessary paperwork, in that most of the information collected changes very little from year to year. Testimony also suggested that this process diverts staff time away from actually operating and overseeing programs.

Consequently, the Committee proposes to amend the law to permit three-year applications instead of annual applications. The changes in the application procedures for local educational agencies should reduce their administrative burden by eliminating redundant annual descriptions of programs and projects that change little over a one year period. However, nothing in this language should be construed as permitting local educational agencies to fail to make procedural or design changes that are found to be necessary as a result of Federal or State auditing or monitoring during the three years for which an application is in force. In particular, the causes of audit exceptions or of findings of procedural noncompliance should be corrected promptly, and a description of the new practices submitted immediately as a modification to the local educational agency's current application.

(8) Designating school attendance areas

The present Title I statute and regulations give school districts considerable flexibility in determining which schools will provide Title I services and how much money will be allocated to each one. The regulations contain only two basic requirements: one, that schools identified as eligible must have high concentrations of low-income children; and two, that from among these eligible schools, districts must target funds to schools which have the highest percentages or numbers of low-income children or which have the greatest need.

The NIE found that there are strong pressures at the local level to increase the numbers of schools being served, and that the goal of concentrating on the lowest income schools is not being effectively met. Regarding the eligibility procedures, NIE found that ten different sources of poverty data were cited by the districts studied to determine eligibility and concluded that districts are counting a school eligible if it meets any of the criteria they use. Regarding the targeting requirements, NIE discovered that targeting as a separate step seems to be almost nonexistent. NIE noted that 94 percent of all eligible schools are targeted, with the result that 62 percent of schools in Title I districts provide Title I services.

The present Title I legal framework permits school districts to "skip" attendance areas with high concentrations of poor children in the targeting process if they can demonstrate that the educational need is greater in other eligible areas ranked lower in the poverty scale. Much discussion during Committee hearings centered around whether this provision should be made more flexible, especially as regards attendance areas with high incidences of educationally-deprived children. Part of the NIE study assessed demonstration projects in 13 school districts that received special permission to use novel funds allocation procedures in their Title I programs. The NIE found that most of the districts chose to use achievement criteria to designate eligible schools, which consequently enabled them to serve more schools and students.

Witnesses who urged more flexibility in this regard expressed a concern that children in dire need of compensatory services are not being reached because they reside in an ineligible attendance area. In addition, data from an OE-funded study of the sustaining effects of compensatory education indicated that 2.1 million children in grades 2–6 who are one or more grade levels behind in reading and math are not being served, while 2.4 million children who do not meet this criterion of underachievement but some of whom may be from poverty families under the Orshansky index are participating in Title I.

Several other witnesses testified that loosening poverty-ranking requirements would result in limited funds being spread too thinly and dilute the intensity of services to the neediest students. In fact, the NIE study of the 13 demonstration districts concluded that while these districts were able to serve more students without significantly reducing the intensity or quality of services, they could not do so for long without increases in funding.

The Committee bill clarifies the manner in which school districts are to distribute Title I funds among eligible schools and children in order to insure that children in greatest need of special assistance residing in areas having the highest concentrations of low-income families are served first. The amendment codifies the long standing OE policy of requiring local educational agencies to rank, from highest to lowest, school attendance areas in accordance with incidences of children from low-income families. The existing statute provides for two exemptions to the general principles for designating project areas (use of enrollment data and the so-called formerly eligible provision). The amendment provides for three additional exceptions and amends a fourth in order to give districts more flexibility without watering down the targeting features intended to give the programs a focus when funds are limited.

First, the Committee bill authorizes a local educational agency to rank all of its school attendance areas both according to poverty and educational deprivation and then to serve the poverty schools in the order of their ranking unless another school attendance area ranked according to educational deprivation has substantially a greater proportion or number of educationally deprived children, in which case such attendance area may be served before service is provided to other school attendance areas ranked according to poverty which have a substantially smaller number or pecentage of educationally deprived children. This exemption contains a limitation that no school district exercising this option may serve any more attendance areas than the number identified using the poverty ranking.

Second, the Committee bill authorizes the Commissioner to promulgate regulations permitting local educational agencies to target lower ranked eligible areas or schools having substantially greater incidences of educational deprivation than higher ranked eligible areas or schools. To satisfy this exemption regulations must provide, at a minimum, that (1) the local educational agency use an objective measure of educational deprivation which is uniformly applied throughout the district, (2) schools skipped under this exemption are considered project area schools for the purpose of demonstrating comparability and (3) the local educational agency specifically demonstrates to the satisfaction of the State educational agency that it is complying with the applicable requirements of the amendment and the regulations promulgated thereunder.

Third, the Committee bill authorizes the Commissioner to promulgate regulations permitting local educational agencies to skip higher ranked eligible school attendance areas or schools where such areas or schools are receiving, under a special State or local program, services of the same nature and scope as they would have received under Title I. Regulations should define the phase "same nature and scope" to provide, at a minimum, that local educational agencies must demonstrate comparability in schools which are skipped.

In addition, the regulations should indicate that in cases in which children attending private schools are not receiving, from non-Federal sources, services of the same nature and scope as they would have received under Title I, the local educational agency must determine and serve children attending private schools according to the general principles for targeting areas under subsection (a) and the exceptions contained in subsections (b), (c), and (d) but without regard to subsection (e). The regulations should also indicate that this exemption is not to be construed to increase the number of children attending private schools who must receive assistance. In sum, all determinations must be made as if this exemption did not exist.

Fourth, current OE regulations provide that any school attendance area with 30 percent or more children from low-income families (based on eligibility for free lunch) may be designated a target area. A problem with this rule is that it requires the use of free lunch data even though many districts use Census. AFDC or other economic data to determine district-wide poverty and attendance area eligibility. Limiting the percentage exception to schools which qualify under the free lunch criterion can thus have the effect of setting two different standards for school eligibility. The Committee bill reduces this minimum to 20 percent out of a concern that inflexible targeting requirement could force some school districts with very high incidences of poverty to declare school with 20 percent low-income enrollment ineligible, while schools with only 10 percent low-income enrollment or less might be eligible in wealthier neighboring districts. The Committee also feels that regulations should be modified to specify that attendance areas may qualify for the percentage exception on the basis of the most current available poverty data used by the district to determine the district-wide poverty average.

Finally, the Committee clarifies existing OE policy respecting the selection of data sources for purposes of making targeting decisions. Although local educational agencies have considerable discretion in choosing the measure of low-income to use in ranking schools or attendance areas, the amendment provides that once a measure is selected, such measure must be uniformly applied. The Committee hopes this amendment will eliminate the inconsistent applications of poverty measures discussed above.

(9) Children to be served

With respect to the targeting of children, the Committee bill reemphasizes that Title I funds must be used to meet the needs of children in greatest need of special assistance; however, the bill provides an exemption from this general requirement for children who were determined to be in greatest need of assistance in a previous year but who, in the following year, while still considered to be educationally deprived, are no longer in the greatest need of assistance.

The amendment also provides that children who were properly enrolled in a Title I program but who have been transferred in mid-year to a non-participating school prior to completion of that program may continue, for the duration of the year, to receive Title I services. The purpose of this special eligibility is to minimize disruption of the educational program on children changing schools in accordance with a mid-year desegregation order or due, perhaps to a fire or other natural disaster. The special eligibility created by this amendment cannot by itself be the basis for eligibility of children in years after the year of the transfer. After that year, children must either reside in a project area or attend a project area school. Finally, the amendment authorizes the Commissioner to allow a local educational agency to skip a child residing in a Title I area who is in greatest need of assistance if that child is receiving services, from non-Federal sources, of the same nature and scope as would otherwise be provided under Title I.

(10) Requirements for design and implementation of programs

The Committee bill continues to allow districts a great deal of latitude in designing and implementing programs that best suit the needs of their deprived children. The achievements noted by the NIE and other evaluations suggest that school districts have sufficient experience to structure programs that promise success in dealing with their particular student population. Testimony and evaluations indicate that only a few relatively minor changes are in order.

First, the Committee bill more clearly spells out the intention of the needs assessments presently required of all participating districts. In 1975 the Comptroller General reported that over a third of both the school districts and the States included in a survey "said they had received insufficient guidance . . . on how to make and document needs assessments". This amendment supports OE's recent efforts to remedy this problem.

The needs assessment requirement, as set forth in the amendment, prescribes a process of inquiry and analysis which has two major purposes. The first purpose is to generate data on which to base child targeting decisions. To this end, existing data are reviewed to identify the children who are educationally deprived. Additional data are then gathered, if necessary, and reviewed to determine which children are in greatest need of assistance. The second purpose of the needs assessment requirement is to generate data on which to base program design decisions. To this end, existing data are reviewed to determine the general instructional areas on which to focus. Additional data are then gathered, if necessary, and reviewed to determine, in greater detail, the incidence and severity of the needs of actual program participants. This process includes an attempt to determine the factors contributing to children's learning problems.

In sum, a proper needs assessment forms a sound basis on which to plan the utilization of Title I funds. School districts which design programs directly responsive to the special needs of program participants identified in their needs assessments should have little difficulty complying with fund use or distribution provisions such as the prohibition against supplanting and the prohibition against use of Title I funds for general aid purposes.

The needs assessment activities required by this amendment must be read in conjunction with other requirements specifying (1) that Title I programs must be focused on meeting the needs of educationally deprived children residing in low-income areas; (2) program designs must be of sufficient size, scope, and quality; and (3) that research and evaluation information must be employed in considering the design of Title I programs. These requirements, when viewed as a whole, establish the program development process. It is expected that the following steps will be followed in the design of Title I programs.

First, applicants will decide the general instructional areas on which the program will focus, e.g., reading the language arts, and the general target groups, e.g., elementary, intermediate, high school, or some combination of these levels. These steps are premises for the more comprehensive needs assessment and program design decisions which will be made subsequently. These decisions may be based on existing data and on value preferences or educational theory as to the effectiveness of focusing on a particular instructional area and working with a particular group of children. Of course, an applicant may gather empirical evidence and formulate a more precise means of assessing which areas and which groups need help most. Children not in the targeted general groups need not be included in the more detailed needs assessment steps described below. Similarly, the assessment of instructional needs may be limited to the selected general instructional areas.

Second, the applicant must discover the educationally deprived children, using existing data, and then determine those in greatest need of special assistance.

Third, the applicant must decide the actual program participants, employing specific criteria. This step must be based on the policy of selecting first those who are in greatest need of assistance or those children who were in greatest need in a previous year and are still educationally deprived. The determination of those having the greatest need requires only comparison of the educational attainment of children within the same targeted group. For example, applicants deciding to focus their Title I funds at the secondary level need not document whether a tenth grader has greater need than an individual third grade student. In sum, once the actual program participants have been selected, only they need to be included in the more detailed needs assessment steps to follow.

Fourth, the applicant must discover, in greater detail, the needs of the targeted children in general instructional areas and discover factors contributing to the program participants, failure to perform at a level appropriate for children of their age. This needs assessment step is more refined than earlier steps. The purpose of this step is not just to conduct a general review or to determine who should receive services but to discover in detail which precise needs must be met. This step should also identify whether certain special needs could best be met through non-instructional support services.

Fifth, the applicant must decide the objectives and sub-objectives and decide the particular activities and services to be offered. The discovering of needs leads directly to the establishment of objectives which in turn forms the basis for the decisions respecting the instructional strategies chosen. Resource constraints necessarily limit the extent to which activities and services can be provided to the program participants, but the primary impact of resources constraints must fall on the number of participants and the number of general instructional areas selected for emphasis in previous steps. Participants and general instructional areas must be limited so that sufficient funds are available to provide all the activities and services which will ensure each program participant a fully adeqaute opportunity to accomplish the established objectives.

The needs assessment activities required by this amendment must be read in conjunction with Section 34(h), which requires effective employment of research and evaluation information in the design of Title I programs. Research and evaluation information should be considered, along with needs assessment results, in the on-going modification and improvement of Title I programs.

The second change regarding program design which the Committee proposes has to do with who is involved in designing these programs. The Committee hearings revealed that parents and, in some cases, teachers were not adequately involved in the program planning process. In particular, a 1976 study of exemplary parent participation programs found that parent participation in setting student objectives was virtually non-existent. Therefore, the Committee bill proposes that each local program must involve parents of participating children in the establishment of the program and in the setting of program goals. Parents must also be informed of the progress of their children. In addition, teachers are required to be involved in the planning and in the evaluation of programs.

The Committee considered, but rejected, an amendment which would have required school districts to distribute instructional materials to parents for use in the home. By rejecting this amendment, the Committee wished to make clear that decisions regarding the specific means for involving parents should be left up to the local district, and that no district should be required to use Title I funds for this or any other particular activity. However, distribution of materials to parents would remain one permissable means of fulfilling this provision, among others, such as setting up school volunteer programs. The Committee merely wished to emphasize that all of these activities would be at the local district's option.

Third, the Committee uncovered instances where Title I funds were not only poorly coordinated with other Federal, State, and local services, but also supported services which were available from other community agencies. The Committee bill, therefore, requires that a local school district must consider benefits and services available in other programs before it applies to use Title I funds for such benefits or services. Regarding health, social, and nutrition services, the school district must first request from the State educational agency assistance in locating and using other sources of funds for these purposes.

Title I is designed to provide assistance for meeting the special educational needs of educationally deprived children. These needs will be related primarily to instruction in the basic skills, but may in some cases also be related to health, nutrition, social or other services. For instance, supportive social services could be funded which link the disadvantaged child to the education process by helping in assuring school attendance and promoting the physical and emotional health so that the child may benefit from teaching. This amendment to the statute is not intended to prohibit the use of school district funds to provide auxiliary services in the areas of health, nutrition, or social services. Rather, it is intended to insure that the coordination among various Federal and State programs in these areas is improved. Therefore, school districts that wish to include these services as components of their Title I programs are required to request information from the State regarding what programs exist, what services they can provide, where these services are available, and the procedures and conditions for obtaining services. If information from the State indicates that the particular services needed to fulfill a school district's Title I plan are not available, or that funds are inadequate, or that other conditions to the receipt of services cannot be met by the school district, then Title I funds may be used to provide these services, or to provide certain portions of these services, subject to State and local Title I policies.

Several other findings, while not necessitating amendments, have led the Committee to believe that districts are simply not aware of the flexibility afforded them to design and operate Title I programs under the present legal framework, or else may be avoiding unfamiliar alternatives for fear of audit exceptions.

For example, NIE found that fewer than 1 percent of public high school students (grades 9–12) in K–12 districts receive compensatory education services, compared to 20 percent of public elementary school students (grades K–8). Many districts give priority to elementary school children because they believe these children can receive the greatest benefit from special services. However, districts are also reluctant to conduct high school programs because they are uncertain about the type of programs which would be legal.

The committee wishes to re-emphasize that Title I is not solely a program for elementary school children. It is expected that the Commissioner will clearly indicate in regulations that the federal government is neutral with respect to the focus of Title I programs. This neutrality will best be indicated by the inclusion of legal models in OE regulations indicating the proper resolution of legal issues that might arise when Title I funds are used either in the elementary or secondary schools.

Another important issue for some State and local school officials is whether Title I requires or encourages a particular instructional strategy. An NIE contractor concluded that Title I neither requires nor encourages any particular instructional strategy. Nevertheless, the same NIE contractor concluded that some State and local officials expressed the point of view that HEW auditors, in fact, encourage one particular instructional strategy, namely, the pull-out design. The Committee wishes to emphasize that Title I should not be construed to encourage or require any particular instructional strategy. OE should develop regulations which inform program administrators how to design "in-class" as well as "pull-out" programs. This policy of neutrality is supported by NIE's research which did not show one setting was considerably more effective than another.

NIE also found that many compensatory education students are assigned to homerooms exclusively with other compensatory education students. NIE survey data suggest that these students—one fourth of all compensatory students—are separated from higher achieving students for the entire school day. The Committee wishes to emphasize that the separation of compensatory education students from higher achieving students for the entire school day is not required by Title I, is not a necessary aspect of compensatory instruction, and to the extent possible, should be avoided. To the extent educationally deprived children receive all of their instruction in a separate setting from higher achieving students, the applicant must be able to show that program participants are receiving their fair share of State and local funds and that programs are substantially different in quality and content from services offered children in regular classrooms and are designed to meet specific needs of children to be served.

Finally, the Committee would like to emphasize that the requirement in section 34(g) that local evaluations "include objective measurements of educational achievement in basic skills over at least a twelve month period" is intended to direct districts to examine student progress over a longer period of time than the mere nine or ten months they are receiving Title I services. It is not meant to prescribe the twelve month interval as the only acceptable one, especially in cases where such a testing schedule would prevent the district from acquiring the information necessary to enable it to comply with the requirement in subsection (3) regarding utilization of the data for planning and improving projects; for example, in short-term intensive projects, in sites where students' participation in a Title I summer project might contaminate the evaluation of the school-year activities, or in districts where student retention or loss of skills over the summer is related to the goals of the school-year program, adjustments in the testing schedule may be necessary.

(11) Parental involvement

The NIE study indicates that parental involvement activities now account for the largest expenditures for auxiliary services under Title I. These expenditures have increased in recent years, perhaps due to provisions in the 1974 Amendments which strengthened and expanded the concept of parent involvement by mandating school advisory councils.

However, testimony from parents and citizens groups suggests that the absence of specificity in the current parent involvement provisions have limited the effectiveness of some of the PACs to token involvement. For example, data from the NIE National Survey reveals that one-third of the districts surveyed had no functioning chairperson of a school advisory council. A study of State and local administrations of Title I revealed that at least one-fourth of the districts studied had no functioning school advisory council. The Federal Education Project found that in some instances State educational agencies and local educational agencies were imposing severe restrictions on PAC membership and operation. The project also concluded, and parents testified, that they sometimes experienced difficulty in gaining access to information about a school district's Title I goals, requirements, and practices.

Consequently, the Committee bill proposes a revision of the requirements for Title I advisory councils. Schools having fewer than one full-time equivalent Title I staff member would not need to have an advisory council, although parents must still be involved in the program. Schools with more than one such staff member must have an elected council with a majority being parents of eligible children. Schools with at least two full-time equivalent staff members must have elected councils composed of not less than five members, meeting at least four times a year, and composed of members with terms of not less than one nor more than three years. In addition, school-district wide councils are required for all districts receiving Title I funds. It is also made clear that a teacher not residing in the school district or school attendance area may be a member of such a council.

Regarding the provision requiring a minimum of four meetings per year, the Committee notes that this figure is only a minimum and should not be interpreted as an optimum number. Above this minimum, the Committee feels the number of meetings should be determined by parent advisory council members. Many PACs may feel that, for example, a monthly meeting schedule is most effective. Although most PAC meetings will ordinarily take place during the regular school year, PACs are also encouraged to meet during the summer if this would aid the members' participation in planning or advising for the subsequent school year, assisting or reviewing summer projects, or evaluating the previous school year's project.

The Committee bill also requires that parent advisory councils should have access to any documents that are pertinent to the operation of local Title I programs and projects. Ordinarily this would include: the current LEA applications, evaluation and description of the project design; any planning documents that describe the organization, objectives and content of the local project; reports of any Federal auditing, monitoring or technical review of the State or local program; the most current version of the Policy Manual required by Section 137 of this Act, or any version of this manual specifically developed by OE to be of assistance to parents. These documents, and any others that may be specified by the Commissioner, the appropriate State or local program officer, should be available at a place, and at times, convenient to the members of the parent advisory council. If a location and schedule of hours convenient to PAC members cannot be devised, then "access" should consist of providing a copy of the documents to the PAC free or at a reasonable cost.

(12) Funds allocation

This section of H.R. 15 consolidates the various provisions of existing law insuring that children participating in Title I programs and project areas receive their fair share of State and local funds. The first such provision deals with "maintenance of effort" by States and local school districts. This provision is amended to simplify the waiver procedure by making such waivers available only for one year, by requiring reductions in Title I funds proportionate to the reductions of effort, and by clarifying that the level of effort in the year preceding the waiver is the level to be considered in succeeding fiscal years in measuring effort.

The second provision has to do with the "supplement, not supplant" requirement. In 1970 the Title I statute was amended to include this provision. In general, this provision prohibits local educational agencies from using the receipt of Title I funds by program participants as a basis for discriminating against such children in the provision of regular State and local funds. In other words, children participating in Title I programs must receive their fair share of regular State and local funds. They cannot be penalized in the provision of such State and local funds because they receive assistance under Title I.

In their analysis of the application of the supplement, not supplant provision to the distribution of regular State and local funds, NIE concluded that the provision was necessary and provided sufficient flexibility; however, it concluded that although regulations promulgated by OE prescribe the principles of supplanting, and include some, but not all, of the tests used by OE for determining compliance with the provision, such regulations are not sufficiently comprehensive because some tests are not expressly set forth in the regulations and the regulations are not sufficiently clear because they do not take into consideration the needs of program administrators. Individuals who have been active in Title I for a number of years and who have devoted substantial amounts of time to studying and interpreting the provision have been able to develop a clear understanding of the legal direction that is being provided. However, for those administrators who are new to Title I or have not found the time necessary to study the statute and regulations, the application of principles to day to day situations is not sufficiently clear. This lack of sufficient clarity increases the likelihood that (1) school districts will not comply with the law because they do not understand what is expected of them; and (2) State and local administrators will pursue overly restrictive policies not prescribed by federal law.

These findings suggest that OE regulations must take in to consideration the needs of the affected audience and must be sufficiently comprehensive. All tests developed by OE pertaining to supplanting must be published in the Federal Register in accordance with Section 431 of the General Education Provisions Act. Furthermore, to avoid the issuance by State educational agencies of overly restrictive policies, OE regulations must contain legal non-supplanting models and include examples explaining how the general principles apply to day to day situations.

An NIE contractor concluded that a statutory amendment is required to carry out the intent of Congress in the 1974 amendment to Title I that states and school districts be encouraged to establish programs similar to Title I to serve educationally deprived children. The present provision in the statute, proscribing supplanting of state and local funds by Title I funds, uses children "participating" in Title I programs as the frame of reference for considering whether supplanting has occurred. The Office of Education, in an attempt to carry out the intent of Congress to encourage an expansion of programs for educationally deprived children, has used all children eligible for Title I services as the frame of reference for considering whether Title I funds have supplanted special state and local funds that focus on educationally deprived, handicapped or bilingual children. The Office of Education's interpretation avoids the following only children actually "participating" in Title I programs were considered in determining whether supplanting has resulted from the consequences which would occur, under certain circumstances, if distribution of such special state and local funds: (a) special funds, which could have been used to provide compensatory education programs to children eligible for, but not actually "participating" in, Title I must be used for children already receiving Title I services; and (b) inhibiting flexibility in coordinating such special funds and Title I funds, so as to serve all children eligible for Title I. To avoid such consequences, this amendment clarifies that the Office of Education's interpretation is consistent with the intent of Congress.

In sum, the purpose of the supplanting provision with respect to the distribution of regular base state and local funds is to ensure that children participating in Title I programs receive their fair share of such base funds. The purpose of the supplanting provision with respect to special state and local funds is to ensure that educationally deprived children residing in Title I eligible areas qualifying for such special funds receive their fair share. Thus, the effect of this amendment is that the statute will include two distinct sections pertaining to supplanting: the first section is applicable to regular base state and local funds and to state phase-in programs qualifying for an exemption under section 41(a)(2); the second section is applicable to special state and local funds qualifying for an exemption from the comparability and excess costs provisions, irrespective of whether the option provided thereunder is exercised.

The amendment also clarifies the circumstances under which an agency may take into consideration the availability of Title I funds with respect to the distribution of special state or local funds. In general, special state and local funds must be distributed according to state or local law without considering the availability of Title I funds. Then Title I funds are distributed by the agency according to the federal rules.

The general principle that special State and local funds must be distributed without regard to the availability of Title I funds is subject to an important qualification: the existence of Title I funds can be taken into account in the distribution of special State or local funds if the State or local educational agency employs a plan for distributing such funds which is based on objective criteria formulated in accordance with the principles described below.

The objective criteria requirement ensures that State compensatory education funds will be distributed without discrimination against Title I project areas or children participating in Title I programs, while at the same time permitting comprehensive and coordinated planning by the school district and joint distribution of Title I and SCE funds in cases where no discrimination exists.

To comply with the provisions of the amendment pertaining to the formulation of objective criteria, the applicant agency must:

(1) formulate objective criteria for determining which children will receive assistance under the special state or local program;

(2) identify the children satisfying the objective criteria and the schools or grade-spans in which such children are enrolled or school attendance areas in which such children reside;

(3) determine what percentage of children of the total number of children in the district who satisfy the objective criteria reside in areas eligible for assistance under this title;

(4) multiply the percentage of children residing in areas eligible for assistance under this title who satisfy the objective criteria by the total amount of state and local funds the local educational agency will provide for the special state or local program in all school attendance areas.

(5) distribute to educationally deprived children, in the aggregate, residing in areas eligible for assistance under this title, an amount of such special state or local funds which is no less than the amount determined in step 4;

(6) ensure that educationally deprived children residing in areas eligible for assistance under this title, satisfying such objective criteria receive assistance under either this title or under such special state or local program before any child who does not satisfy such criteria receives such assistance;

(7) ensure that all educationally deprived children in greatest need of assistance residing in Title I areas who receive assistance under a special State or local program in lieu of Title I, and who would have received assistance under Title I if such special program did not exist, receive services under such special program that are of the same nature and scope as would otherwise be provided under Title I; and

(8) ensure that educationally deprived children attending private schools will be selected for participation in Title I programs according to general procedures for ranking school attendance areas without regard to exemptions to that procedure allowing children residing in certain areas to receive special State and local fund in lieu of Title I.

The third provision to assure equity in funding for Title I children is the "comparability" requirement. The Committee bill contains an amendment to that provision which ensures that services provided with State and local funds will be comparable in all areas of a district which each area in the district has been properly designated, under regulations promulgated by the Commissioner, a Title I project area.

The amendment reflects the intent of Congress that comparability be determined and maintained in all circumstances except with respect to State and local funds specifically exempted by statute and except as provided in the next sentence. Certain exemptions provided for in existing regulations published in the *Federal Register* (41 FR 42894 *et seq.*, September 28, 1976) shall continue in effect. The applicable regulations provide that local educational agencies that receive ninety-five percent of their funds for education from federal sources and those which operate only one school serving children at the grade levels at which Title I services are to be provided are to be exempted from the comparability requirement. Furthermore, schools with an enrollment less than 100 should not be included in the comparability report provided that if the local educational agency operates schools in project and non-project areas such agency files a statement with the state educational agency which sets forth the policies it will follow concerning the equitable allocation of instructional resources.

Since services must be comparable, differential costs involved in providing the same services to different size schools or schools in remote rather than near locations, etc., may be taken into consideration in determining comparability. A weighting system might be employed, for example; however, it is important that adjustments of this kind be limited in their effect to the purposes for which they are valid. Thus, methods of taking into consideration differential costs must not have the effect of exempting any school from compliance with the comparability requirement.

(13) Accountability

The Committee bill consolidates into one section the provisions regarding recordkeeping and reporting which are now spread throughout Title I. The bill also contains an amendment providing that a local educational agency which uses Title I and State and local compensatory education funds to design and implement a single compensatory education program which satisfies all Title I requirements, need not separately account for the Federal, State and local funds. Should expenditures of combined funds ever be found to violate Title I legal requirements, the Commissioner should seek to recover the proportionate Federal share of the misspent funds.

(14) School district complaint resolution

The Committee bill contains an amendment clarifying the responsibility of local educational agencies to resolve complaints about Title I. Because Title I is a program intended as a direct benefit to educationally deprived children, it is most appropriate that procedures be established whereby these beneficiaries may require the trustees of the funds to account for their actions. Since the beneficiaries are children, it is appropriate that the necessary procedures provide access to parents, parents councils, and others concerned with the proper protection of children's legal rights.

The complaint resolution procedures required by this amendment are intended to provide thorough inquiry into, and prompt and definite resolution of, each complaint that is made on behalf of children eligible to participate in Title I programs.

(15) Participation of children enrolled in private schools

Title I funds have always been intended to reach eligible pupils in nonpublic as well as public schools. However, NIE's research on Title I indicates that children in nonpublic schools may not be adequately served by Title I programs.

According to the NIE, less than 4% of private school students living in Title I districts receive Title I services; in fact, only 43% of the Title I districts that contain private schools provide Title I services to private school children. In addition, participating private school pupils receive an average of approximately one hour per week of compensatory instruction, compared with an average of 5½ hours per week for all Title I children. NIE speculates that nonpublic schools may not be informed of the availability of Title I services, school districts may have problems in identifying eligible students in private schools, and that public school officials may not be designing programs to meet the specific needs of private school children, especially when these needs differ from those of public school children.

The Committee bill basically repeats the language of present law regarding the participation of private school children, with two amendments. First, a new provision is included requiring equal expenditures on Title I children in private schools, but in determining this amount the number of such children to be be served and the special educational needs of such children may be considered. The addition of this equal expenditure requirement is intended by the Committee to insure that children enrolled in private elementary and secondary schools will receive comparable benefits from programs authorized by Title I according to the standard presently required by current regulations and approved by the United States Supreme Court in its decision of June 10, 1974 (*Wheeler* v. *Barrera*).

Second, the Committee adopted language providing for an expedited procedure for implementing the Commissioner's bypass authority. In taking this action, the Committee recognizes that there have been lengthy and unnecessary delays in the exercise of the Commissioner's bypass authority. These delays have adversely affected the participation of nonpublic school children in Title I and Title IV programs.

It is the intent of the Committee that the Commissioner exercise the bypass authority in a manner which will assure a prompt resolution of complaints from representatives of nonpublic school children that such children are not participating in either Title I or Title IV programs. In this respect the Committee expects the Commissioner to adopt and publicize systematic procedures for the prompt processing of complaints.

The Committee also wishes to emphasize that school districts should publicize which attendance areas are eligible for Title I and the availability of services to eligible non-public school students in these areas. Where appropriate, efforts should be made to include private school personnel in the Title I needs assessment and program planning process. These goals can best be accomplished by the strengthening of OE regulations ensuring that adequate information is made available about private school children's eligibility for Title I services.

The Committee bill also amended two other sections of Title I affecting private school children. The Committee adopted language requiring the needs of participating private school children to be taken into consideration in evaluating Title I programs. This is in response to the demonstrated need for more data on the participation of nonpublic school children to be collected in a systematic way by the public school authorities which have the responsibility for administering the Title I program. It is the intent of the Committee that these amendments will insure the acquisition of better information concerning this matter.

In addition the Committee approved language which specifies the responsibility of State education agencies to monitor and enforce the requirements of Title I. In paragraphs 5 and 6 of section 121, the Committee specifically requires that the State set up procedures for resolving complaints from representatives of children enrolled in private schools as well as describing the means by which the State has insured that the requirement for the participation of nonpublic school children is being complied with by the local educational agencies within that State.

The Committee has adopted this language because it recognizes there are serious problems with regard to the compliance of local educational agencies with the requirement of nonpublic school participation. In the face of a documented need, by adopting this language the Committee reinforces its intent that these requirements be fully implemented in all programs authorized by Title I.

(16) Exemptions from excess cost and comparability requirements

Witnesses often mentioned the so-called "mini-comparability" reports, as creating excessive difficulties for their districts, especially in light of present trends resulting from implementation of the Education of All Handicapped Children's Act, P.L. 94–142. According to one school superintendent, mainstreaming of handicapped children makes it very hard to prorate students to arrive at full-time equivalency data. Further, there is a wide variation in the types and costs of services required for students with different handicapping conditions.

In light of the safeguards set forth in P.L. 94–142, the Committee amendment repeals the mini-comparability report for handicapped children. The Committee bill also deletes the requirement for a mini-comparability report on bilingual education programs. School districts must still maintain comparability of services for such children, but the detailed reporting now required to document this fact will no longer be required.

NIE's research on State compensatory education programs noted that while State coordinators of these programs identified a number of problems in the relationship between Title I and their own State programs, nearly all these problems arose from lack of clarity in interpretations and guidelines issued under Title I or from inconsistencies in Federal monitoring and enforcement. The special exemption from comparability requirements granted in the 1974 Amendments apparently removed the one specific barrier in the legislation to full implementation of State programs.

However, testimony of some State coordinators of State programs suggests that concerns remain regarding the distribution of State compensatory funds in areas ineligible for Title I. Therefore, the Committee bill rewrites these sections of present law to make them as clear as possible. The Committee has also been as precise as it can be in laying out the requirements it believes should apply in order to gain a State or local compensatory program an exemption from Title I's excess cost and comparability provisions. The whole purpose of these requirements is to assure Title I children a fair share of these funds but not to secure for them any favoritism.

The Committee bill also includes a provision giving a new exemption from the comparability and excess costs provisions for State programs which are being phased into full operation by a date certain. The exemption is identical to that presently provided for certain special State and local programs, e.g., State and local compensatory education programs. The amendment specifies ten conditions which must be complied with in order for the Commissioner to certify the program's eligibility for the exemption.

Another amendment affecting both this new exemption for State phase-in programs and also the old exemption for State and local compensatory programs would require advance determinations by the Commissioner or State educational agency that special State or local programs, as legislated, satisfy the requirements for an exemption from the excess costs and comparability provisions. In addition, the amendment requires that the State educational agency monitor local educational agencies to ensure that such programs are being implemented in accordance with the applicable State or local requirements. It is the Committee's expectation that this pre-expenditure certification procedure will reduce the number of audit findings concerning this issue.

The Committee bill also creates a limited exemption from the "supplement, not supplant" requirement, where the amount of State or local compensatory education funds (satisfying the conditions for an exemption from the excess costs and comparability provisions) used in areas eligible for assistance under Title I when added to the amount of Title I funds provided to the local educational agency equals or is greater than the amount of Title I funds a local educational agency would have received that year had Title I been fully funded. Under this limited circumstance, the local educational agency may use additional state compensatory education funds exclusively in non-Title I areas until those areas are brought up to the same level of total compensatory education funding (state and federal) provided per program participant in the Title I areas. After the non-Title I areas are brought up to this level, the "supplement, not supplant" requirement is fully applicable to the distribution of any additional state compensatory education funds.

The purpose of the amendment is to provide state and local educational agencies with an incentive to increase their level of state and local compensatory education expenditures.

The Committee bill also contains an exemption for school districts to expend up to two dollars of State compensatory funds upon educationally deprived children in non-Title I areas for every dollar of State funds they spend in Title I areas. In order to qualify a State program would have to meet the requirements of a program qualifying for an exemption from the excess cost and comparability requirements.

(17) Schoolwide projects

Once the percentage of poverty children in a Title I school reaches a very high level, it makes little sense and is cumbersome to enforce requirements that Title I serve only Title I children, or that Title I services be supplemental in character. As noted earlier, high concentrations of poor children serve to multiply the adverse effects of economic deprivation and create undue burdens on a school's ability to support even basic educational programs.

Several State and local school personnel who were surveyed by the NIE-supported Legal Standards Project argued that it is virtually impossible to design "special" programs for the vast majority of the school students which do not also meet the needs of the entire school. Rather, it would seem to be a sounder educational practice to plan a curriculum focusing on the entire educational program and thus avoid the considerable administrative demands resulting from separate recordkeeping and scheduling of special programs.

A few witnesses did urge that if greater flexibility is permitted, precautionary measures should be taken to insure that Title I would not degenerate into general aid spent for purposes that do not contribute in an identifiable way to students' academic achievement. The Committee has adopted an amendment which it hopes contains such measures.

The amendment permits schools having 70 percent or higher concentrations of children from low-income families to utilize supplementary State and local funds along with Title I funds to design a single Title I program in which all children in attendance will be considered program participants, including those children who are not considered educationally deprived, where the local educational agency satisfies certain requirements. Where such requirements are satisfied, such schools will not be required to account for the Title I funds at the level of the individual child.

Subsections (b)(7)(A) and (b)(7)(B) of this amendment are designed to ensure that the programs provided in the highly concentrated schools are of sufficient size, scope, and quality, thereby maximizing the likelihood that the program's objectives will be accomplished. Under the amendment educationally deprived children attending such highly concentrated schools must be allocated at a minimum, an amount of Title I funds commensurate with the average per pupil allocation of Title I funds provided to children participating in Title I programs attending non-highly concentrated Title I project area schools. In addition, the local educational agency is required to provide supplementary state or local funds in an amount, per child attending the highly concentrated school who is not educationally deprived, equal to the amount of Title I funds provided per educationally deprived child attending such school. Thus, for example, if there are 1,000 children attending a school in which 800 children are educationally deprived and the average expenditure of Title I funds is $500 per program participant, in non-highly concentrated Title I project area schools, then the highly concentrated school must receive from Title I funds $500 per educationally deprived child and in addition from supplementary state or local funds, $500 per non-educationally deprived child in the school. Thus, a total of $500,000 in Title I and supplementary state and local funds would have to be received by the highly concentrated school: $400,000 of Title I funds (800×$500=$400,000) and $100,000 of supplementary state or local funds (200×$500=$100,000). These requirements ensure that the inclusion of non-educationally deprived children neither dilutes the Title I program for educationally deprived children in that school nor reduces the Title I funds available for educationally deprived children in other Title I schools.

Subsection (b)(1)(A) of the amendment is designed to ensure that the educationally deprived children in greatest need of special assistance are not ignored by the local educational agency. Although this amendment permits local educational agencies to target all children in highly concentrated schools, programs provided in such schools must continue to pay special attention to meeting the needs of those educationally deprived children in greatest need of special assistance. The amendment requires, for each highly concentrated school, a comprehensive school level plan which sets forth, among other things, the proposed steps which will be used for meeting the needs of those children who are furthest behind.

The Committee wishes to emphasize that, in adopting this amendment, it does not mean in any way to diminish the authority which school districts presently have under Title I. The Committee simply means to authorize an exemption from restrictive requirements in limited situations where those requirements seem to be impeding the operation of an effective educational program. The Committee envisions that an effective program in these highly concentrated schools could include an overall reduction in class size as well as support for the various specialized services traditionally provided with Title I funds.

(18) Noninstructional duties

The Committee found that the existing prohibition against Title I staff assuming non-instructional duties in some cases creates ill will among teachers in the same school.

The Committee has, therefore, included an amendment permitting personnel paid entirely by Title I funds to be assigned to non-instructional duties as long as the time consumed in performing such duties was approximately the same proportion of time as that spent by non-Title I personnel, but in no case could such time exceed 14 percent of such person's total time.

In general, this exemption is intended to apply to such tasks as hall duty, lunch room supervision and playground monitoring, and other similar tasks that are necessary to the orderly conduct of the school day, and are usually shared among the staff members of a school. The specific duties will vary somewhat among schools and districts. However, in no case should this exemption include substitute teaching of a non-Title I class, or result in Title I staff performing for pay any duties that non-Title I staff must perform without pay.

PART B—PROGRAMS OPERATED BY STATE AGENCIES

In addition to funding programs operated by local school districts, Title I authorizes grants to State educational agencies to operate programs to meet the special educational needs of three populations of deprived children who lack an affiliation with particular school districts: handicapped children in State-supported institutions; children in State institutions for neglected or delinquent children or in adult correctional institutions; and migratory children of migratory agricultural workers and migratory fishermen. Payments for these programs take precedence over all other Title I programs and are to be made to the full extent of their authorizations, with no pro-ration. Each of the State programs contains its own particular requirements regarding payments and uses of funds.

Testimony before the Committee revealed that these programs seem to be working well and have enabled hundreds of thousands of children to receive educational benefits that would not be provided otherwise.

(1) State handicapped program

The State handicapped program created in P.L. 89–313 presently serves approximately 224,000 children in over 6,900 centers or schools, an increase from 166,000 children in 3,700 schools in fiscal 1974. Appropriations have increased from $85.8 million in that year to about $121.6 million in fiscal 1978. As the program has grown, it has changed in character as well. In 1966, 97 percent of the children were in residential programs. In fiscal year 1978, 40 percent were in residential programs, 49 percent in State-supported day programs, and 8 percent in follow-along programs administered by local school districts. School districts totaling 3,124 are participating in this latter part of the program which permits 89–313 funds to follow a child who leaves a State-operated or supported program and enters a special education program operated by a school district. In addition, 89–313 is serving a much more diversified population than in its early years, when it focused on severely handicapped institutionalized children such as mentally retarded and emotionally disturbed children.

A GAO assessment of the program has uncovered some problems. The GAO found wide inconsistencies in the use of 89–313 funds—some of which appear to be basic in nature, others which were of questionable relevance to an educational program. This problem appears to stem from some fuzziness in the legal frame work as to whether funds are intended only for supplementary services or whether they can help finance the basic educational program itself. The situation is complicated by the fact that, historically, handicapped children in institutions have had little or no basic educational opportunity and 89–313 has been one of their few sources of access to any educational or training services.

Second, the GAO review found that targeting of funds to or away from certain groups of children is a widespread practice, despite amendments in 1974 emphasizing that this practice is inappropriate. The GAO stated that targeting took place in 74 percent of the situations they examined: 24 percent of the eligible schools received more or less than their proportional share, and 50 percent received no funds at all. Once funds reach the school level, targeting also occurs. The GAO found that 79 percent of the funds were targeted to provide direct instructional and supportive services to 48 percent of the children. The other 21 percent of the funds were used to provide only supportive services to 42 percent of the children. The remaining 10 percent of the children received no Title I funded services.

The Committee has declined, after extensive debate, to propose no amendments to this program. The Committee believes that most of the problems uncovered by GAO are correctible administratively, and the Committee also feels that now is not the time to try to re-shape this program when the closely-related general program to educate handicapped children (P.L. 94–142) is just now being implemented.

An amendment was offered to the P.L. 89–313 provisions of Title I which would have had the effect of placing 89–313 children under The

Education of All Handicapped Children Act (P.L. 94–142) over a five year period so that there would be one law concerning the education of all handicapped children regardless of where they live or are educated.

The idea in combining the two laws was to develop a uniform program of services and funding for all handicapped children. It was contended that because of the anticipated growth of the P.L. 94–142 appropriations by 1982 billions of new dollars should be available. Some concerns were also raised as to whether the 94–142 appropriations will grow fast enough to accommodate the merger, and the amendment was withdrawn.

The Committee decided not to take any action at this time and has referred the matter to the Select Education Subcommittee of the Committee which has made a commitment to look at both P.L. 89–313 and P.L. 94–142 laws this year and determine what mechanism can be developed to bring equity between the two programs. If it is determined that the laws should be merged, the Committee will work out some mechanism for doing it and report a bill promptly to the full House.

(2) State neglected and delinquent program

The Title I State program for neglected and delinquent children presently serves about 27,000 children in 437 institutions. These participants constitute about 72 percent of eligible neglected, 65 percent of eligible delinquents, and 34 percent of the youth in adult correctional facilities. Appropriations for fiscal 1978 totaled about $29 million.

The nature of Title I services provided these children varies considerably, but educational facilities are generally poorer in adult correctional institutions. Overall, about 70 percent of Title I expenditures in these institutions are devoted to basic skills instruction, most commonly in the form of individualized instruction. This focus seems appropriate in light of the fact that over 50 percent of the institutionalized delinquent population suffers from severe reading problems and 34 percent are functionally illiterate. A national evaluation of the program found that about 56 percent of participating students felt the Title I classes in reading and math were teaching them more than other classes they had taken in these subjects.

Because many of these youth will not continue their education beyond the mandatory age, funds are also targeted in vocational instruction. Counseling and psychological services are other frequently supported activities.

A GAO report on this program concluded that, given the enormous diversity of the target population and the limited funding, the program might be more effective if priority were given to institutions which serve younger children and provide services over a longer period of time. Presently, the program tends to direct funds to institutions which serve older youths or youths likely to be exposed to educational services for a relatively short period of time. The GAO also found that pre-release and transitional services need to be improved.

The Committee has decided not to adopt the GAO's recommendations as amendments to the law, but we do urge the Office of Education to take the GAO's report very seriously and to try to implement its recommendations within the framework of the present law insofar as that is possible. The Committee has adopted one amendment to this program which emphasizes that this aid is to be supplemental to aid which the State is providing for the basic education of these students. We feel that requiring only five hours a week of basic education—as the regulations presently provide—is not sufficient to meet this requirement. Title I aid is to be for supplemental services for these children and youths; it is not to provide their basic education. That is the responsibility of the State.

(3) State migrant program

States receive grants to educate migrant children based on the full time equivalency of school-aged migrant children residing in the State as determined by the Migrant Student Records Transfer System. Upon approval of its application, a State has the option to operate programs for the State level or to provide services through the local school districts which migrant children attend at a given time.

Appropriations for the program have grown from $78 million in fiscal 1974 to over $145 million in fiscal 1978. Participating children have increased from 162,480 full-time equivalent children in fiscal year 1974 to 296,430 full-time equivalent children in fiscal 1978. This growth is primarily due to the inclusion in 1974 of formerly migratory children who have settled out of the migrant stream for up to five years. These "five-year" children presently constitute about 31 percent of the total children counted; of the remainder of children, 44 percent are interstate migrants and 25 percent are intrastate migrants.

State directors of migrant education programs testified that what little data is available show achievement gains for migrant students, particularly in improving their English language skills. Witnesses noted, though, that the program has succeeded in helping to curb the alarming migrant dropout rate and in providing much-needed health and nutritional benefits.

Despite the success of the Title I migrant program in identifying and serving children who were virtually ignored prior to this legislation, testimony indicates that the needs of those children are not yet being adequately met. For example, numerous States and communities with migrant education programs are making little or no effort to involve parents, although given their unique lifestyle, parental participation is crucial to insure that these children remain in school. Also, the lack of stability in the average migrant child's educational process speaks for the necessity of summer programs, but few States have implemented these programs due to their higher costs.

Therefore, the Committee has adopted amendments requiring the establishment of parental advisory councils for these programs and requiring the Commissioner to adjust the count of children used to determine payments in the program in order to take account of the special needs of migrant children for summer programs.

The Committee heard from witnesses again this year of the importance of cooperative efforts among the States to deal with the unique problems of migrant children. And, although the States have cooperated with the Migrant Record Transfer System, and although some States have gone further with their own efforts, like Texas and Washington State, much more needs to be done. Therefore, the Committee has adopted an amendment authorizing funds separately for the express purpose of operating the record system and to support other activities to improve the inter-State and intra-State coordination of programs for migrant children.

(4) Payments for State programs

A last amendment the Committee adopted affecting all of these State programs in Title I changes the "hold-harmless" provision. Presently, there is a 100 percent hold harmless to the level of funding for fiscal 1974 for all of these programs. The Committee proposes to change this to an 85 percent hold harmless, but to permit States to receive 100 percent funding of migrant programs based on the old hold harmless until 1983. This amendment affects only the hold-harmless provision of these programs; it in no way affects the "off-the-top" funding of all these programs which would continue unamended.

Part C—State Administration

The major responsibility for managing and monitoring Title I local school district programs is shouldered by the State educational agencies. NIE discovered, though, that many States are confused as to their exact responsibilities and authority in the areas of rulemaking, disseminating information, providing technical assistance and monitoring and enforcing compliance. NIE attributes this confusion to the ambiguity and degree of difficulty of the statute and to the inconsistency of Federal monitoring, which is discussed in a later section.

As a consequence, NIE found that States have adopted widely different administrative policies and that some do not fulfill all of their responsibilities. Most seriously, NIE concluded, the failure of Title I's legal framework to provide clear guidance has in some cases led to State practices that may not be in compliance. For example, some State's application forms request only limited information from local school districts and may result in these States approving programs that do not meet all requirements. A review of audit policies also disclosed that several State educational agencies do not conduct audits of compliance with every regulation, as required by law, but only audits of total expenditures.

States also differ widely in the resources available for administration under the set-aside and in how they use these resources. Although there is a formula for determining the State administrative set-aside, it does not take into consideration the number of Title I districts in the State. Thus, while States average about $2,700 in administrative funds per school district, one State has only $343 per school district and another has over $13,000.

Some States use most of this set-aside on staff, while others use substantial portions for expenses such as contractors and indirect costs. In general, NIE concluded that those States which use most of their administrative funds on staff are more active and more effective in dealing with local school districts. Those States which generally played a less significant role in providing guidance and assistance were those which used smaller proportions to hire staff.

NIE concluded that the most effective way to help States provide good management would be to encourage States to use their administrative funds to hire more staff. NIE noted that this might be accomplished by expending the size of the administrative set-aside, a recommendation with which many State witnesses concurred. NIE cautioned, though, that this does not necessarily mean that States will increase staff, since some States with small set-asides have more staff members per dollar than States with large amounts of funds for administration.

The Committee bill, therefore, seeks to strengthen State administration and enforcement by spelling out more precisely what responsibilities States possess and by making more funds available to carry out certain specific responsibilities. The Committee bill also increases the set aside of funds for State administration, but does not vary amounts per State dependent on its number of school districts nor make the new funds dependent on hiring more staff. However, the Committee does wholeheartedly urge the States to consider the findings of the NIE study and to use their administrative funds in the most effective manner possible.

(1) Application approval

The Committee bill contains an amendment clarifying the interrelationship between the State educational agency's function of approving applications and other State administrative functions performed under this title, e.g., monitoring, auditing, complaint resolution, and enforcement. The amendment requires that, in addition to reviewing the school district applications, the State educational agency must review and take into consideration pertinent Federal and State audits and programs review reports and administrative complaints and evaluations.

The Committee feels that application approval is perhaps the most important function performed by State educational agencies under Title I. It enables the State educational agency to determine whether an applicant agency has complied with applicable program requirements before the applicant agency implements the program or project described in the application. In addition, the review and approval process gives the State educational agency an opportunity to comment on the quality of the proposed program or project; to provide any necessary technical assistance; and to place the applicant agency on notice as to practices which would be considered unacceptable under Title I.

Application approval is also significant because of the important relationship between the application and State educational agency monitoring, auditing, technical assistance, complaint resolution, evaluation and enforcement.

Furthermore, the effects of approving an application that does not meet all the applicable requirements can include costly audit exceptions and appeal to the Audit Hearing Board; a determination that illegal expenditures must be reimbursed; burdensome attempts to achieve compliance in mid-year; or even litigation by Title I parents and children seeking to insure that their rights are protected. A well designed application approval process can help applicant agencies avoid such compliance problems.

Other benefits flowing from effective review of applications were mentioned in a recent report from the Office of the Assistant Secretary for Education, the DHEW Sanction Study (1977):

> The SEAs are charged with the basic responsibility for reviewing LEA applications to determine whether the programs described in the application conform to the Title I requirements. *The importance of this function for quality programming cannot be overemphasized. SEAs have the opportunity to exercise detailed pre-expenditure control in their application reviews.* (Emphasis added).

With respect to quality programming, the Committee wishes to clarify its intent in requiring that State educational agencies review and take into consideration pertinent evaluations prior to approval of an application. The Committee intends that State educational agencies determine whether the project described in the application reflects the results of evaluations of that project, i.e., State educational agencies should not routinely approve applications for project designs which previous evaluations have demonstrated are of little value in raising the achievement level of participants.

The Committee believes that more effective State performance of the application approval function would be facilitated if the Commissioner were to provide increased technical assistance to State educational agencies, including model application approval procedures to relate application approval to other administrative functions and a model application form to assist State educational agencies in designing forms for their own use.

(2) State rulemaking

The bill also contains an amendment clarifying the authority of State educational agencies to establish State Title I rules, regulations, guidelines, criteria, and other requirements that are not inconsistent with Federal law or regulations. The NIE concluded that State Title I rulemaking authority is unclear and that this has produced divergent State interpretations of their authority to establish State Title I rules and regulations.

In enacting Title I, Congress placed significant discretion and responsibility for programs at the State level. The Committee has previously emphasized the crucial role that State educational agencies play in the administration of Title I. The important function they perform in such areas as application approval, monitoring, auditing, and enforcement should not be undercut because of uncertainty about their authority to establish State Title I rules and regulations. However, the Committee also wishes to emphasize the need for the Commissioner to clarify the scope of State educational agencies' authority to establish State Title I rules, regulations, guidelines, criteria, or other requirements. The Commissioner should insure that State educational agencies do not establish overly restrictive requirements because of State misinterpretations of Federal regulations. Thus, the Commissioner should clarify the various legal program design options and the circumstances under which different program components may be included in program designs.

(3) Technical assistance

This amendment clarifies the scope of the State educational agency's responsibility to provide comprehensive technical assistance to local educational agencies and State agencies receiving funds under Title I. Furthermore, it requires State educational agencies to develop effective procedures for disseminating to local educational agencies and State agencies receiving assistance under this title (1) significant and relevant information derived from educational research; (2) information about successful Title I projects; and (3) such other information as will assist local educational agencies in planning, developing, implementing, and evaluating programs and projects under this title.

The HEW Sanction Study concluded that, "State technical assistance efforts vary widely in quality and approach." The Committee realizes that different needs may dictate different forms of and approaches to technical assistance provided by State educational agencies. The Committee's intent is that State educational agencies provide a program of comprehensive technical assistance, including assistance in such areas as management, program planning, development and implementation, evaluation, preparation of the following years' application, and other forms of technical assistance that may be appropriate.

The Committee believes that a broader, more balanced approach to technical assistance will help improve program quality and compliance, as opposed to minimum compliance with the applicable provisions of this title and the regulation.

(4) State monitoring

This amendment would require State educational agencies to establish procedures, consistent with minimum standards established by the Commissioner, for monitoring the performance of Title I programs and projects.

The Committee believes that monitoring is important because it enables the State educational agency to (1) determine compliance with legal requirements; (2) ascertain whether the program is being implemented pursuant to the application; (3) render technical assistance; (4) determine the quality of the services provided to participating children; and (5) identify future technical assistance needs.

The Committee has previously stressed the importance of State monitoring of Title I programs in its report on the 1974 Amendments. Yet, a 1975 GAO report about Title I (Assessment of Reading Activities Under the Federal Program of Aid for Educationally Deprived Children) cited a need for improved monitoring of Title I programs. The GAO study found that about 35 percent of the State educational agencies visited as part of the study had no formal monitoring systems for Title I.

The report concluded that the State educational agencies reviewed "need to establish monitoring systems, formalize existing systems, or conduct more indepth reviews during monitoring visits if these visits are to be useful in evaluating LEA performance."

Monitoring is an important part of State administration of Title I. The Office of Education should, in the course of conducting its own program reviews of state administration, insure that such state procedures have been developed and that they are consistent with minimum standards for State educational agency monitoring established by the Commissioner in Title I regulations.

(5) Complaint resolution

This amendment clarifies the responsibilities of State educational agencies to resolve complaints about Title I programs and projects. The need for a complaint resolution procedure at the State level stems from the need, generally, for a comprehensive system of procedures interlocking all levels (LEA, SEA, and OE), and the important role the State would play in that system.

Opportunity for appeal from local school districts' decisions, however, and access to a forum other than one presided over by the officials against whom a complaint is made (i.e., local school district officials) are essential parts of any comprehensive, interlocking complaint resolution procedure.

Appeal from a local school district's resolution of a complaint could be to the State office. This could offer a forum independent of the local school district. States are familiar with portions of a local school district's activities, namely these funded by the State, that are not normally the concern of Federal agencies. Because they know more about the State funded context in which disputes concerning federally-funded programs arise, State educational agencies are first level appellate agencies more appropriate than Federal offices.

(6) Withholding of payments

This amendment clarifies the authority of State educatioanl agencies to withhold payments when, after reasonable notice and opportunity for hearing to any local educational agency or State agency, it finds that there has been a failure to comply substantially with any applicable requirement.

NIE discussed the authority of State educational agencies to enforce Title I requirements and found that although the States had implied authority to withhold or suspend funds the manner in which states implemented this authority was "quite inconsistent." In discussing the problems caused by implied rather than express enforcement authority, the study concluded that, "the most potentially troublesome is the authority of the State to suspend or withhold funding from an LEA."

The amendment gives the State educational agency discretion to suspend the initiation or continuation of a withholding action by entering into a compliance agreement with a local educational agency or State agency receiving funds under this title. The Committee intends that if a compliance agreement has been entered into and the State educational agency, subsequently finds, after reasonable notice and opportunity for a hearing, that there has been a failure to comply substantially with the compliance agreement, then the State educational agency shall not make further payments to the local educational agency or State agency until it is satisfied that there is no longer any such failure to comply. Thus, if the State educational agency finds that a local educational agency or State agency has not complied with the compliance agreement, it shall withhold payments under this title until it is satisfied that there is no longer a failure to comply. The

Committee does not intend that another compliance agreement be entered into if the State educational agency, after reasonable notice and opportunity for a hearing, finds that the affected agency has not complied with the terms of the compliance agreement. In such cases, the Committee intends that the State educational agency withhold payments under this title.

With respect to the relationship between compliance agreements under this section and the audit resolution procedures required under section 117(b), the Committee intends that compliance agreements not be used to reduce or forgive any amount of funds which final State audit resolution determinations have determined were misspent or misapplied and must be repaid.

The NIE report also found that existing Title I regulations refer to the obligation to enforce, but are not organized to facilitate enforcement: "Enforcement related provisions are scattered throughout the Federal legal framework and there is no separate section in the Title I regulations that contains a list of SEA enforcement options and sanctions and the authority to impose them." The Committee feels that State enforcement of Title I requirements is an important state function designed to insure that Congressional intent is furthered. Accordingly, the Committee strongly urges the Commissioner to clarify the range and scope of State enforcement authority and sanctions by insuring that regulations promulgated under this title are (1) organized to facilitate State enforcement of Title I requirements and (2) contain a section describing enforcement options and sanctions and the legal basis for such sanctions. At a minimum, this section of the regulations should refer to such enforcement options or sanctions as disapproval of applications which do not conform to applicable requirements, the compliance aspect of monitoring and auditing, audit resolution, repayment of misspent or misapplied funds, withholding of payments and compliance agreements.

(7) Audits and audit resolution

This amendment clarifies the audit and audit resolution responsibilities of States. With respect to audits, it provides that each State shall make provision for audits of the expenditure of funds received under this title and that each such audit shall deermine both fiscal integrity and compliance with applicable statutes, regulations, and terms and conditions of the grant or subgrant.

The Committee notes that the HEW Sanction Study concluded that, "Failure to meet audit responsibilities at the SEA/LEA levels is one of the most frequent findings of the HEW Audit Agency."

The Committee is concerned that the Commissioner has not given sufficient guidance to State educational agencies about their auditing and audit resolution responsibilities. Applicable regulations require that the scope of audits conducted by State agencies or subgrantees include both "fiscal integrity" and "compliance with applicable statutes, regulations, and terms and conditions of the grant or subgrant." Yet, the NIE report concluded that the audit policies of most state educational agencies are concerned with fiscal audits, not fiscal and compliance audits.

The Committee recognizes that in some states, audits may be conducted by auditors from State agencies other than the State educational agency or by auditors employed by local educational agencies. In the interest of uniform standards for audits of programs under this title, the Committee believes that the Commissioner and the HEW Office of Inspector General should establish minimum standards to guide non-Federal auditors in conducting audits of Title I that include both fiscal and compliance considerations. With respect to the compliance aspect of Title I audits by non-federal auditors, the Committee believes that, at a minimum, the compliance portion of a general audit should include a review of the following areas: (1) school attendance area eligibility and targeting; (2) eligibility and targeting of children and (3) supplemental use of Title I funds and the prohibition concerning the use of Title I funds for general aid.

The Committee believes that an audit of these areas is necessary because these subjects concern the fundamental purposes of the Act: to provide supplemental financial assistance to local educational agencies serving areas with high concentrations of children from low-income families to enable these agencies to expand and improve programs which contribute particularly to meeting the special educational needs of educationally deprived children residing in such areas.

The Committee also notes that the GAO audit standards issued under the signature of the Comptroller General, Standards for Audit of Governmental Organizations, Programs, Activities, Functions (1947) address the subject of audit instructions by stating that

> Federal . . . agencies that request state, local or other levels to make audits are expected to prepare broad, compresensive audit instructions, tailored to particular programs or program areas.

The Committee believes that non-Federal auditors who conduct such audits would be well served by having a set of Title I audit instructions which have been reviewed and approved by HEW's Office of General Counsel.

The amendment clarifies the audit resolution responsibilities of State educational agencies under this title by requiring that SEAs establish written procedures, consistent with minimum standards established by the Commissioner, for the resolution of audit findings and recommendations.

The NIE report found that, in the absence of clear standards for state audit resolution, "SEA audit resolution policies vary widely; Some SEAs do not have such policies; others have informal procedures for resolving audit findings. In the states that have written audit resolution policies, very few have established deadlines for completion of the process." The Committee intends that State educational agency audit resolution procedures include procedures for receiving and, where appropriate, reviewing audit reports and determinations made by auditors from State agencies other than the State educational agency and by auditors employed by local educational agencies.

The amendment also clarifies the responsibility of the State educational agency to recoup from non-Federal sources, funds which audit resolution procedures show were misspent under this title. The Committee, is concerned that some State policies for the recoupment of misspent funds under this title permit the State educational agency to subtract the amount of the misexpended funds from a local educational agency's allocation and do not require that such misexpenditures be repaid from non-Federal sources.

It is not the Committee's intent that the intended beneficiaries of the program, educationally deprived children, be penalized because a local educational agency may misspend funds under this title in one year and then have the misspent funds subtracted from its allocation in another year. If such a policy were permitted, the program's intended beneficiaries would be penalized twice for the misdeeds of a local educational agency. First, they would receive less Title I services in the year the funds were misspent. Second, they would receive less Title I services in the year the allocation was reduced by the amount of the misexpenditures, unless the missent funds were repaird from non-Federal sources. The Committee intends that when the State audit resolution process requires the repayment of Federal funds which were misspent or misapplied, such repayment may be made only from funds derived from non-Federal sources.

(8) State management summary

This amendment provides that the Title I application submitted to the Commissioner by a State must also contain an annual State management summary. This part of the application will provide, in quantitative and summary form, a report of State administrative activity in the past year and a projection of similar activity for the coming year.

The amendment will strengthen the Commissioner's ability to determine if compliance problems exist before federal approval is granted. The Committee believes that closer scrutiny of State applications prior to approval will enable the Commissioner to reduce the number of instances in which the Commissioner must later initiate proceedings to recoup funds determined to have been expended in a manner contrary to the requirements of Title I. The Committee further believes that the annual State management summary will provide information which States may find useful in systematizing their administrative procedures and which will also be useful to the Office of Education in its program reviews of State administration.

To assist in the development and implementation of the annual State management summary, the Commissioner is directed to promulgate regulations under this section and develop a model reporting form to assist states in gathering data to be contained in their summary.

An additional State responsibility results from the duty of the State educational agency to disseminate information related to auxiliary services.

Section 35(f)(1) of the Title requires that school districts coordinate their Title I programs and projects with the "benefits and services which are or may be available through other public and private agencies, organizations or individuals." Paragraph (2) specifies this requirement with respect to the areas of health, nutrition and social services. These are the areas in which other Federal or State programs are most likely to be readily available. One reason for the relatively poor coordination among programs to date has been the difficulty of obtaining complete, accurate and up-to-date information on these services during the planning phase of local Title I programs. It would be unrealistic, redundant and burdensome to require every school district to search for and compile this information separately. The State educational agency is the appropriate agency to perform these functions, and is required to do so as part of its dissemination duties. In order to be useful, information should include the titles of existing programs, current levels of funding, restrictions on the uses of such funds or on the availability of services, procedures for obtaining or applying for these funds or services, and the identity of the agency and/or individual from whom further information may be obtained. When responding to local requests, the State educational agency should also provide information about any State policies relating to auxiliary, non-instructional services provided with Title I funds.

PART D—FEDERAL ADMINISTRATION

Inasmuch as Title I is not a program of general aid, administration to control the use of funds is an important feature of this legislation. The primary role of the Federal government with respect to administration of Title I is to establish the rules under which the program operates and review the actions of State and local educational agencies to ensure that these rules are observed.

The NIE report on Administration of Compulsory Education examined the Federal statute, the regulations, and the Office of Education's efforts to carry them out. The NIE concluded that the legal framework is consistent, the regulations are basically sound and the OE management system is workable. In addition, NIE noted that Title I administration is probably better now than at any time since the program was enacted.

However, the NIE discovered that there are many problems with the ways in which OE conducts the day to day management of the program. The NIE provided evidence that OE is implementing administrative requirements in a manner which is neither clear nor consistent, and that this inconsistency is confusing States and local educational agencies about their obligations. In particular, NIE found that OE does not apply consistent standards in identifying violations of the "supplement, not supplant" requirements. Some OE officials administer the same requirement in different ways at different times. Furthermore, officials at various levels in the OE hierarchy administer the relevant requirements differently and the findings of program review teams and official audits are often reversed. The net result, according to the NIE, has been a decline in the level of monitoring and enforcement of these provisions and a weakening of the statutory guarantees.

A second weakness in Federal administration deals with the clarity of the legal framework. The NIE found that the law and regulations are not written clearly enough to be understood by those who implement the program. In addition, OE provides interpretation of this legal framework on an inquiry by inquiry basis and does not make clear in a general sort of way what are permissible activities. Many of the amendments discussed in the preceding sections of this report, as well as the overall rewriting of the statute, are intended to rectify this problem.

Third, NIE found the Department of HEW had a poor record in audits. Although a large number of audit exceptions have been made in recent years, less than 5 percent of the amounts involved are ever acted upon by OE and less than 1 percent of these funds are actually recovered.

Part of the underlying problem may stem from the fact that fewer persons are assigned to administer Title I today than there were in 1971, when its appropriation was only $1.5 billion. Presently, there are 86 positions assigned to Title I in OE regional offices and headquarters, compared with 111 in 1971.

Several of the aforementioned problems deal with internal matters in OE over which Congress has no control, although the Commissioner of Education has testified that he is attempting to rectify this situation. However, the Committee does recognize its responsibility to aid in these efforts by removing the ambiguities in the legislation.

(1) Evaluation

For all OE programs, including Title I, the General Education Provisions Act requires that the Commissioner provide the House Committee on Education and Labor and the Senate Committee on Human Resources with an annual report evaluating program effectiveness in achieving legislative purposes. The report is required to set forth goals and specific objectives in qualitative and quantitative terms for all programs and projects assisted which are evaluated and relate those goals and objectives to the program's purposes.

The General Accounting Office, however, has conducted a recent review of the annual evaluation report on OE programs for fiscal year 1975 which showed that most of its statements of program goals and objectives merely restated the legislative purposes or general goals, and did not set forth specific objectives. Qualitative objectives, even in the broadest sense, were established for very few programs.

The Office of Education responded to this report by agreeing with the GAO observations and by stating that OE has seldom established specific objectives. In its defense, OE stated that it should not better define the program objectives to be evaluated as required by the General Education Provisions Act, because, in spite of the legislative requirement to specify objectives, OE believes there are limits on its "authority and ability" to increase the clarity and specificity of program objectives.

The Committee believes that OE should comply with the General Education Provisions Act requirement as GAO recommended. In its annual evaluation report on OE programs, HEW should set forth goals and specific objectives in qualitative and quantitative terms for all programs which are evaluated, including Title I. In addition, OE should initiate dialogues with the House Committee on Education and Labor and the Senate Committee on Human Resources to seek understanding and agreement on program evaluation matters, including the specific program objectives to be used for evaluation, the acceptable evaluation data needed by congressional decisionmakers, and the measure to be used.

Another finding of the GAO report was that there is a need to improve the adequacy of State and local evaluation reports on Titles

I and VII of ESEA, if the reporting systems based on aggregated local agency data are to be effective. The GAO noted OE's plans to require State and local use of the Title I evaluation models (or use of alternatives that the Commissioner of Education certifies will generate compatible evaluation data) to improve State and local evaluation reports. However, GAO concluded that questions exist about whether the Title I evaluation models will be able to provide valid and acceptable data to meet program information needs. If the models cannot provide such data, GAO also questioned whether improvements could be made in the evaluation reporting system based on aggregated local data which would enable it to meet program information needs at Federal, State and/or local levels.

As GAO recommended, the Committee believes that OE should assess whether State and/or local evaluation reports for Titles I and VII can be improved so that they supply officials at Federal, local, and/or State levels with the reliable program information they need for decisionmaking. This includes assessing the adequacy of the Title I evaluation models and related data. If OE determines that it is unrealistic to expend resources on improving these programs' State and local evaluation reporting systems based on aggregated data, then it should take the needed steps to adopt more feasible and effective approaches. This should include eliminating unwarranted reporting requirements and if necessary proposing to the Congress any legislative changes needed to accomplish this.

Although OE stated that it concurred with the general thrust of GAO's recommendation, the agency implied that its actions underway to improve State and local evaluation reports are likely to be successful. Statements by OE evaluation office officials directly contradicted this implication and questioned the practical feasibility of aggregating local level data. Therefore, the Committee urges a thorough review by OE of its plans in this area, with a redirection or abandonment of those plans if they cannot realistically accomplish their goals.

The Committee has adopted an amendment to Title I of ESEA in the evaluation section which requires OE to consult more directly and regularly with local and State administrators. This consultation should give OE good advice on the practicality of its plans.

Another concern brought out by GAO has to do with State and local evaluations in general. Such evaluation reports on Federal elementary and secondary education program effectiveness are intended to provide information on which local, State, and Federal officials can base policy and program decisions. But, GAO found through a questionnaire that State and local officials see important differences in the types of evidence of program effectiveness that they themselves and officials at other levels—Federal, State, and local—prefer.

Therefore, better communication is needed among the three levels about the information they need to facilitate policy and program decisions at each level. The questionnaire results also raise the issue of whether all three levels can be served by a reporting system based on the same reports.

Although State officials view OE program officials as being most impressed by standardized norm-referenced test results, and local officials view State and OE officials in the same manner, State and local officials say that they are not most impressed by such results. Local officials prefer broader, more diverse information on program results than just these test scores and they are most impressed by improvements in curriculum and instructional methods and gains in the affective domain (likes, dislikes, interests, attitudes, motives, etc.). State officials are most impressed by results from criterion-referenced tests.

It seems on the other hand, that OE prefers hard objective data on students' cognitive improvements. Office of Education officials have asserted that this means gain scores on standardized norm-referenced achievement tests because these are most available.

The widespread use of standardized norm-referenced tests to evaluate State and local Title I, and VII programs indicates that State and local officials have more frequently based their evaluations on the kinds of results they believe would be likely to most impress higher level officials than on their own preferences.

In connection with the assessment recommended above, GAO also recommended that the Secretary of HEW direct OE to review the types of State and/or local program evaluation information collected (or planned to be collected) on programs authorized by Titles I and VII of the Elementary and Secondary Education Act. The Committee believes that this recommendation should be implemented and the review should include an assessment of the information's usefulness at each level and should determine:

—Whether it is realistic to attempt to serve Federal, State, and local levels with aggregated data based on local agency evaluation reports.

—How the information needs at the local, State, and Federal levels can best be met.

—Whether unnecessary duplication exists or will exist in meeting Federal information requirements through the State and local reporting systems as well as through OE national evaluations on these programs, and if so, how it should be eliminated.

During this review process to define the evaluation information needed at State and local levels, OE should seek the views and cooperation of the State and local officials who are intended to use the results.

The last major recommendation of GAO in this area was that OE should more strongly emphasize the purpose of providing information to the Congress when planning, implementing, and reporting on evaluation studies. In particular, more attention should be given to timing the studies so that they more clearly coincide with the legislative cycle and briefing congressional committee staff more frequently. The Committee fully concurs with this recommendation and urges OE to comply.

Although the Committee notes these problems with the evaluation activities undertaken under section 151 by the Office of Education, it has found the study of compensatory education conducted under the same authority by the National Institute of Education (NIE), to be of great value. NIE's study evaluated the extent to which (1) the Title I formula directs funds to areas with concentration of low income children; (2) the funds provide additional services to participating children; and (3) the series affect student achievement. The study also examined the effectiveness of the administration of the program. The

NIE study provide valuable information to the Committee during its consideration of this bill.

Perhaps in recognition of the value of this study, the Administration proposed that $3 million per year be provided to NIE from section 151 funds. The Committee has not accepted this proposal because it does not wish to institutionalize a Title I evaluation bureaucracy at NIE. Nevertheless, NIE has clearly developed an acute understanding of the operation of this complicated program and demonstrated competence and expertise in evaluating it. The Committee, therefore, urges the Assistant Secretary for Education to insure that planning under section 151 makes provision to utilize NIE's experience with the program. The Committee does not wish to specify a level of funding for NIE's involvement, nor to define a research agenda. However, studies of the operation of the comparability requirements at the local level, of services to educationally disadvantaged students in non-Title I schools and of the unique educational needs of low-achieving children would appear to be useful. The Committee found that reviewing NIE's plans in compensatory education before initiation of the research to be helpful and hopes that the agency will makes its plans available to the Committee after its role in section 151 has been better defined.

(2) Audits and audit exceptions

This amendment provides that the Inspector General of the Department of Health, Education, and Welfare shall make provisions for audits of grants under this title to determine, at a minimum, the fiscal integrity and legal compliance of grantee and subgrantee actions. The Committee is disturbed by the aforementioned NIE findings concerning the decline in the level of HEW audit activity focused on Title I. The Committee wishes to emphasize that the Inspector General of HEW should insure that Title I programs are audited on a regular basis.

The amendment addresses the Commissioner's responsibility for Title I audit resolution by providing that the Commissioner shall adopt procedures to assure timely and appropriate resolution of Title I audit findings and recommendations. Such findings shall include timetables for each step of the resolution process and an audit appeals process. Furthermore, the amendment provides that where the audit resolution process requires the repayment of Federal funds which were misspent or misapplied, such repayment may be made from funds derived from non-Federal sources or from Federal funds other than funds appropriated to carry out the purposes of this title.

The Committee has in the past expressed its dissatisfaction with the Title I audit resolution process. Adequate improvement has not been forthcoming. The Committee directs the Commissioner to promulgate regulations describing each step of the audit resolution process and deadlines for its completion. The Committee expects that such regulation will reflect the relationships among the various OE responsible offices and the Office of the Inspector General. The Committee notes that the HEW Sanction Study states that ". . . as of this writing it may be said that coordination among the various responsible OE offices (BESE, Audit Liaison and Coordination Office, Audit Hearing Board, and Finance Division) is poor. Their roles are not clearly defined and written procedures have yet to be finalized."

The Committee further expects that in the process of developing adequate audit resolution procedures, the Commissioner will develop (1) a mechanism for coordinating audit resolution among the various responsible offices; (2) common audit standards agreed upon by OE the Office of the Inspector General, and HEW's Office of General Counsel; (3) standards for adequate documentation of audit findings; (4) regular audit status reporting to trace audits in progress, to document where in the audit resolution process they are, and to record their final disposition (including collection status); (5) and methods for audit follow-up to insure that corrective action has been taken.

This section also requires an annual report to the Congress on audit activities. The first purpose of this report is to assist the Congress in its oversight of Federal program administration; therefore the report should be directed to the appropriate personnel of the House and Senate committees for program authorization and for appropriations. The second purpose of this report is to inform program officials, parents and interested citizens of specific compliance, and enforcement problems; therefore the report should be separately available, upon request, to members of the general public.

(3) Witholding by the Commissioner

This amendment adds to the Commissioner's present withholding authority the discretion to suspend the initiation or continuation of a withholding action by entering into a compliance agreement with a State educational agency. The Committee intends that if a compliance agreement has been entered into and the Commissioner subsequently finds, after reasonable notice and opportunity for a hearing, that there has been a failure to comply substantially with the compliance agreement, the Commissioner shall not make further payments under this title to the State (or in his discretion, that the State educational agency shall not make further agreements under this title to specified local educational agencies or State agencies affected by the failure) until he is satisfied that there is no longer any such failure to comply.

Thus, if the Commissioner finds that a State educational agency has not complied with a compliance agreement, the Commissioner shall withhold payments under this title until he is satisfied that there is no longer a failure to comply. The Committee does not intend that another compliance agreement be entered into if the Commissioner, after notice and opportunity for a hearing, finds that a State educational agency has not complied with the terms of a compliance agreement. In such a case, the Committee intends that the Commissioner withhold payments under this title.

The Committee believes that the Commissioner would be aided in making a finding of "a failure to comply substantially with any assurance set forth in the application" if the Commissioner adopted and applied standards that gave meaning to "a failure to comply substantially." The Committee strongly urges the Commissioner to adopt such standards and to apply them in appropriate situations.

The Committee further intends that compliance agreements shall not be exempt from public disclosure under any provision of section 552 of Title 5 U.S.C. The Commissioner shall promptly provide a copy of such compliance agreements to any person who requests one.

Finally, with respect to the relationship between compliance agreements under this section and the audit resolution and repayment procedures under section 114(b), the Committee intends that compliance agreements not be used to reduce or forgive any amount of funds which final audit resolution determinations have determined were misspent or misapplied and must be repaid.

(4) Policy Manual

The NIE found that although the Title I requirements contained in the statute and regulations are generally necessary, consistent, and flexible, these requirements are not sufficiently clear and specific to guide the affected audience—particularly administrators of the program—in the application of particular standards to day-to-day situations. Although NIE found that many applications to particular situations are discussed in program guidelines, handbooks and letters of interpretations, such interpretations typically have not been widely disseminated. The NIE report concludes that "* * * although OE has developed a precisely phrased body of interpretations which if assembled, summarized, and interrelated would resolve the overwhelming majority of difficult questions raised by states and districts. OE has failed to disseminate these interpretations widely." The NIE report also describes the potential effect on the quality of program administration resulting from insufficient clarity in the regulations and the existence of an inadequate system for disseminating its clarifications: "Since States, rather than the Federal government, have the responsibility for the day-to-day oversight of local Title I programs, they often have to interpret Federal policies for local situations * * * Because of this additional step of developing and disseminating a legal framework to guide local behavior, the clarity of the Federal framework takes on added importance. A failure to comprehend the details of it may be compounded by the interpretations that States incorporate into their own directions to districts. The result may be either inaccurate or illegal state interpretations or state requirements that are overly restrictive." The amendment requiring that OE develop and distribute a policy manual is an attempt to address such problems which NIE uncovered. The policy manual will increase the likelihood that Title I requirements are interpreted by State educational agency officials, OE monitors and HEW auditors in a uniform and non-restrictive fashion.

The NIE report on administration referred to above also includes, in an appendix, recommendations made by one of its contractors, for improving the clarity of the federal legal framework:

> OE should include, under each substantive requirement set forth in regulations published in the Federal Register, illustrative examples of its application to commonly occurring situations. This technique is commonly used by other agencies for clarifying complex requirements.
>
> A separate section entitled "interpretations" should be included in the regulations. This section should be organized by subject area, rather than by requirement. Suggested headings include: teacher aides, support services, pullout programs, in-class programs, desegregation, individualized instruction, inservice train-

ing, programs in open-space schools, etc. The resolution of the problems arising in these areas often involves interpretation of a number of regulations. This section should also include legal models illustrating the wide range of alternative program designs that are possible.

The committee wishes to express its support for these recommendations.

PART E—PAYMENTS

The Committee bill retains the payment procedures in existing law, with two exceptions: (1) the State administrative set-aside is increased from 1 percent to 1.5 percent, with the minimum grants increased from $150,000 to $225,000 and with the stipulation that the additional funds are to be used to pay for supplementary compliance efforts; and (2) the provision for ratably reducing allocations in the event Title I is not fully funded is continued with a new amendment clarifying that a local school district's total payment under section 11 and section 21 (State incentive grants) exceeds 100 percent of its section 11 entitlement, any excess would be ratably allocated to other local school districts in that State not receiving maximum entitlements.

PART F—GENERAL PROVISIONS

Part F retains the existing provisions regarding judicial review and extends the National Advisory Council on the Education of Disadvantaged Children.

This part also provides that the maximum payment to Puerto Rico would be 150 percent of its previous year's entitlement and that any excess would be ratably distributed to school districts for the regular school district program. The reason for this amendment is discussed in an earlier section concerning treatment of Puerto Rico.

Part F also incorporates most of the definitions presently contained in Sec. 403 of P.L. 81–874. Since its inception in 1965 as an amendment to the impact aid legislation, Title I of the Elementary and Secondary Education Act has been officially designated as Title II of P.L. 81–874. To dispel any confusion that this may have created as the two acts developed distinct identities, the Committee bill removes Title I from P.L. 874 and incorporates the definitions from that Act applicable to Title I into Title I itself.

(1) Study of alternative methods for demonstrating comparability

Throughout Committee hearings several witnesses complained that the current comparability requirements are burdensome, overly rigid, give a false picture of school district's financial status, and unintentionally detract from the effectiveness of Title I services. OE program officials reported that in fiscal year 1976, 172 school districts failed to demonstrate comparability as of the prescribed date; however, no school district had its application finally disapproved because of failure to submit a revised report.

The Committee hesitates to take any definitive actions in revising the comparability requirement without assessing their impact, since the comparability requirement is central to insuring that Title I represents a special commitment to eligible schools and children. However, the Committee does see the need to study the use of alternative criteria to measure comparability.

Consequently, this amendment authorizes the Commissioner to waive existing criteria for a limited number of school districts for the purpose of analyzing the feasibility and desirability of modifying existing criteria. The study will, among other things analyze the extent to which a school district which is able to comply with the alternative criteria does not comply with existing criteria and whether the use of alternative criteria results in increased problems in the effective oversight of the comparability provisions by the State educational agency and the Federal government.

The Committee recognizes that some school districts are of the opinion that the existing criteria inhibit the development of innovative staffing patterns and thus it is expected that many of the alternatives will address this issue. It has also been asserted by an NIE contractor of a paper entitled, "An Analysis of the Basis for and Clarity and Restrictiveness of the Program Requirements Applicable to Local School Districts Applying for Grants Under Title I of ESEA" that the use of the non-Title I average as the standard of comparison for purposes of demonstrating comparability permits significant inequities with respect to the provision of services paid for with State and local funds to Title I project area schools. These potential inequalities result from the wide variations in the schools constituting the non-Title I average. It is expected that a fair percentage of the alternatives will address this alleged inequity. Alternatives to the use of the non-Title I average which might be selected by a local educational agency include the use of the most favored non-project area school and a requirement that the standard deviation for the non-project area average or some other measure of variance does not exceed a certain tolerance.

Since the purpose of this alternative is to study the development of alternative criteria which provide greater flexibility without compromising the purpose of the comparability provision, school districts must, among other things, continue to ensure that each Title I school be compared with a standard reflecting services provided in schools not receiving Title I funds; that only expenditures for instructional services be included; that the school district continues to report comparability as of a given point in time, i.e., the mere existence of a formula for distributing funds will not qualify as an acceptable alternative to the existing criteria; that the local educational agency files with the State educational agency a statement of the specific policies for ensuring that instructional materials and supplies are provided on a comparable basis; and that all other provisions in the existing regulations published in the Federal Register (41 FR 42894 et seq., September 28, 1976), including the provisions specifying the dates for reporting comparability, that comparability must be maintained, and the enforcement provisions, are still applicable.

(2) Study of parental involvement

The Committee bill also directs the National Institute of Education to conduct a study on the effects of parental involvement in Title I programs.

(3) Indirect costs

The NIE study found that the procedures used to set indirect cost rates generally did not create problems for the Title I program. However, in two cases. NIE found inconsistencies in these procedures, due to a lack of clarity in the legal framework. First, the regulations under the General Education Provisions Act are not clear about which expenses can be charged as indirect costs in the case of State administrative set-aside. As a consequence of this lack of clarity, some States apply restricted rates, while others use unrestricted rates. Second, it is not explicitly stated that States have the responsibility for negotiating indirect rates for Title I programs for handicapped and neglected and delinquent children that are administered by other State agencies. Therefore, some States have not assumed this responsibility.

The Committee wishes to re-emphasize its support of the basic principle that the Federal government should bear its "fair share" of the general administrative costs of Title I. In order to ensure that HEW administers the GEPA indirect cost provisions in a uniform manner and to increase the likelihood that the relevant provisions for Title I are interpreted by State and local agency officials in a consistent fashion, the Committee directs the Secretary to take steps to clarify the GEPA regulations. Specifically, the GEPA regulations should be revised to indicate clearly which costs States are allowed to charge as part of the indirect cost rate for the State Title I set-aside. In addition the regulations should describe explicitly the responsibilities of the State educational agency in negotiating indirect rates for Title I programs administered by other State agencies. The Federal legal framework regarding Title I indirect costs, including these clarifications, should be incorporated into the Title I Policy Manual.

TITLE II—SCHOOL LIBRARY RESOURCES, TEXTBOOKS AND OTHER INSTRUCTIONAL MATERIALS

H.R. 15 extends the authorization of appropriations for Title II of the Elementary and Secondary Education Act until fiscal year 1983. This program is one of those consolidated in Title IV of the Elementary and Secondary Education Act. The Committee bill retains the authorization for Title II so that in the event appropriations for the Title IV programs fall below the previous year's level, funding authority can revert back to Title II and the other separate programs.

TITLE III—SUPPLEMENTARY EDUCATION CENTERS AND SERVICES: GUIDANCE, COUNSELING, AND TESTING

The Committee bill extends the authorization of appropriations for Title III of the Elementary and Secondary Education Act until fiscal year 1983. Although Title III is one of the programs consolidated in Title IV of ESEA, the Committee bill extends its authorization so that funding authority can revert back to Title III if appropriations for the Title IV programs fall below the previous year's level.

TITLE IV—CONSOLIDATED PROGRAMS

Overview

Title IV of the Elementary and Secondary Education Act as amended by P.L. 93–380 consolidates certain formerly categorical education programs into two parts: Library and Learning Resources (Part B) and Educational Innovation and Support (Part C).

Part B includes the old categorical programs for library and instructional materials under ESEA. Title II; the guidance counseling and testing portions of ESEA Title III; and Title III of the National Defense Education Act for strengthening instruction in certain academic subjects.

Part C is composed of the following formerly categorical programs: supplementary education centers under ESEA Title III; ESEA Title V for strengthening State departments of education; and dropout prevention programs and demonstration projects to improve school nutrition and health services for low-income children under ESEA Title VIII.

In fiscal year 1976, the first year of consolidation, 50 percent of the funds appropriated were used for Parts B and C, while the remaining 50 percent was used to continue the categorical programs. The legislation for each of the old categorical programs has been continued so that in the event certain appropriation conditions are not met to trigger the consolidation, funding authority would revert back to the separate programs.

This has not occurred since the inception of the consolidation. Fiscal year 1978 appropriations for Title IV were $167.6 million for Part B and $197.4 million for Part C.

In order to receive Title IV funding each State must submit an annual plan setting forth its proposed uses of the funds. Each State is required to distribute Part B funds among school districts on the basis of enrollments, except that priority is to be given to school districts with high tax efforts or with large numbers or percentages of children whose education imposes a higher cost. Part C funds are distributed by States on a competitive grant basis, with assistance in formulating proposals to be given to smaller or poorer school districts.

Both IV–B and IV–C are extremely flexible regarding the types of programs to be funded. School districts have complete discretion in determining how their Part B funds will be divided among the various programs. There are a few restrictions placed upon Part C funds—not more than 15 percent of a State's grant can be used for strengthening leadership resources and at least 15 percent of the remaining funds must be used for projects for handicapped and learning disabled children. Otherwise, innovative projects funded under Part C cover a wide latitude of curricular areas, from basic skills to human relations, and a wide range of target populations, from bilingual to gifted and talented.

Although one of the basic purposes of consolidating these programs in 1974 was to bring about some simplification in the administration of Federal education programs, the actual task of combining several diverse authorities into a single, smoothly-running administrative mechanism created difficulties at the Federal, State and local levels. In fiscal year 1976, when this transition was being effected, the admin- meant that decisions had to be made about which personnel would be istrative workload actually increased at all levels. Consolidation meant that decisions had to be made about which personnel would be brought together, what priorities would be set, and how funds would be allotted.

Now that the program is in its second year of full consolidation, Title IV appears to be operating fairly successfully and resulting in administrative and programmatic achievements. Reductions in paperwork have occurred at all levels. According to an OE program official, the 4,000 data items previously requested for the categorical programs have been pared down to 293 for the consolidation. The number of staff at the Federal level has been reduced by 30 percent. At the State level, one annual program report now replaces six previous State plans and applications. Local people also testified that with the exception of the single application form, which is discussed later, administration has been simplified and the amount of preparation time reduced.

The consolidated programs have also demonstrated success in improving educational services to public and private school children. In fiscal year 1977 Part B served school districts with an estimated enrollment of over 52 million and provided an average contribution of $1.70 per child. The Office of Education estimates that of the fiscal year 1976 consolidated funds, 54.1% went toward library and instructional materials, 33.7% went toward equipment and minor remodeling, and 12.2% went toward guidance, counseling and testing. For fiscal year 1977, OE staff stated that the proportion for guidance and counseling increased.

Part B funds have benefitted a number of children with greater than average costs to educate, such as low-income, limited English-speaking, migrant, and low-achieving children. In some States, as much as $20 per pupil are going to these children. But, overall, OE estimates that about one-fourth the funds allotted under Part B are directed to 6,000 school districts with significant numbers of "high cost" children. About 10% of the Part B funds served 2,243 school districts with high tax efforts. In addition, 26 States are directing substantial amounts of Part B funds to children enrolled in schools in sparsely-populated areas. Part B funds have helped reduce the cultural and intellectual isolation of many of these children. For example, a one-teacher rural school in North Dakota received over $22 per pupil for purchase of books and instructional media.

Looking at achievements in the individual areas under Part B, the American Library Association estimates that since 1964, the number of volumes in school media centers has increased by 172%. The number of students served by these centers has increased by 50 percent. According to the Association of Media Producers, before ESEA was enacted, almost 70 percent of the nation's elementary schools had no library/media centers. In 1975, this figure had decreased to 20 percent.

In the area of guidance and counseling, OE noted that Part B is enabling school districts to employ more legal guidance staff, although statistics on increases are not available. A witness from West Virginia testified that Title IV has enabled that State to develop guidance and counseling model at all levels and institute an in-service professional development project for counselors.

Although only partial data is available from 23 States on Part C participation, these States report that over 1.2 million children participated in Part C projects in fiscal year 1976. There is evidence that States are not using the maximum amount for State agency activities so that more funds are available for local programs. The 24 States submitting data had made 624 grants for local projects, and over a third of these went to small districts with enrollments under 5,000.

The curricular areas most frequently funded by Part C are basic skills, arts and music, career education, environmental education, and science. Other types of projects most frequently funded deal with guidance and counseling, staff-training, alternative instructional methods, and regional service centers. Target populations most frequently addressed are dropouts, handicapped, gifted and talented, pre-school and bilingual. Thirty-six State educational agencies report supporting about 972 full-time equivalent personnel with their Part C "strengthening" funds.

Several witnesses testified that Part C innovative programs have produced new techniques for improving instruction. An evaluation by the Rand Corporation of Federal funds for innovation found that these funds had a major effect in stimulating local districts to undertake projects that were generally consistent with categorical guidelines. However, factors at the local level resulted in successful implementation of only some of these projects and long-run continuation of even fewer.

One State Title IV-C director testified that in his State, 1,337 schools are using Title IV-C validated demonstration projects and that the program has impacted on 85% of the school districts in the State. This director added that 90% of the innovative projects funded are being continued by the districts. Another State superintendent testified that 345 IV-C projects are currently operating in his State, and the 295 more districts are planning to replicate these projects.

As school operating costs rise and local districts find it difficult to raise the revenues necessary for even a basic educational program, Federal funds for library and learning resources and educational innovation are becoming increasingly important. For example, according to the Association of Media Producers school districts spend only about 1.2 percent of their budgets on instructional materials, even though materials structure about 95 percent of classroom time and 90 percent of homework time. The American Library Association estimates that the present volume of school library materials fills only half the need for these materials. Other witnesses testified that Part C enabled districts to initiate innovation projects that would not have been undertaken without Federal seed money.

In summary, witnesses consistently noted that despite difficulties in implementing the 1974 amendments, the consolidated programs are beginning to show some accomplishments and should be continued. Witnesses generally agreed that a return to the old categorical programs was not advisable; however, within the consolidated structure, certain improvements are necessary to overcome persistent problems.

PROBLEMS

(1) Inclusion of guidance and counseling

The Title IV–B consolidation enacted in 1974 represented an unusual marriage of "things" oriented programs—library and instructional materials—with a "people" oriented program—guidance, counseling and testing. This merger has caused keen competition in some local districts between two areas which the Committee feels are both of high priority. The consolidation has forced local administrators to make decisions at the expense of one or the other activity. One State Title IV director testified that in her State very few guidance personnel have been funded from Title IV–B. Another local librarian testified that in her district, 100% of the Title IV–B grant went to guidance and counseling. Libraries, guidance counselors, and materials producers concurred that all would be better off if the resources and the personnel activities were not forced to compete with each other for funding.

Consequently, the Committee has adopted an amendment which removes the funding for salaries of guidance counselors from IV–B. Instead, a separate program—a new IV–D—is proposed to fund all types of activities involving guidance, counseling and testing. This program will combine not only the payment of counselors' salaries from IV–B but also the payments for State and local guidance and counseling activities authorized in Part D of Title III of the Education Amendments of 1976.

The Committee has included a so-called "trigger" on the appropriations for this new program. This means that unless the appropriation for this program equals at least $18 million for fiscal 1980, and at least the amount provided in the previous year (if greater) for subsequent years, then this new program does not go into effect. In addition, unless this level of appropriation is attained for this program, neither the IV–B nor IV–C programs can go into effect. This provision is included in order to encourage the minimum level of appropriation needed to bring about an adequate national guidance and counseling program.

A last point the Committee would like to make regarding guidance and counseling has to do with the need for elementary school counselors.

The Committee understands that elementary guidance counseling has been a neglected area in the past. Although the number of secondary level counselors is not sufficient to meet the needs of high school students, the needs of students at the elementary level are even more ignored by school districts, largely because of inadequate funding. The Committee urges the Office of Education and the State departments of education to focus more attention on this vitally needed area. The Committee expects that the Congress will fund this new IV–D program at a level high enough to enable local districts to use these funds and some of their own funds to hire elementary school counselors. The Committee believes that if the problems of elementary students can be recognized and treated early when these students are more receptive to assistance, then many of the problems students have in later years can be avoided.

(2) Misuse of funds

A few witnesses told the Committee of instances where Part B funds receptive to assistance, then many of the problems students have in structional program. Witnesses testified that Part B funds were being misused to purchase general office equipment such as typewriters, ice machines, and filing cabinets, and for items peripheral to basic learning such as uniforms and a background music system.

Consequently, the Committee has proposed several amendments to correct these misuses of funds. First, it is made crystal clear that Title IV–B funds are to be spent only for the purchase of library resources and equipment that will be used for instructional purposes. Second, it is newly required that librarians and media specialists be involved in each local school district in the decisions which are made on expenditures of IV–B funds. And lastly, the bill contains a new requirement that librarians, media specialists, and guidance counselors be represented on the State advisory councils for the administration of Title IV. It is hoped that these three amendments will lead to much better State and local oversight of the programs and that the funds will therefore be used as intended.

The Committee is aware that it is sometimes difficult to make a clear distinction between what constitutes instructional equipment for "use in academic subjects" or what the top priority needs should be. The Committee would particularly like to call attention to testimony indicating that IV–B funds were used to purchase stoves and refrigerators, band instruments, and gym equipment such as bleacher seats and basketballs—all of which are questionable expenditures. Since some confusion apparently exists in this regard, the Committee believes that very clear guidelines should be provided to local educational agencies on use of these funds as intended by Congress.

Use of Title IV–B funds for acquisition of instructional materials relating to nutrition education, for example, does not violate the intent of this Committee. The Committee does not intend, however, that IV–B funds be used to purchase food or stoves on which to cook nutritional meals. Although acquisition of materials designed to impart knowledge relating to music education or physical education could be viewed as acceptable uses of IV–B funds, the Committee does not view band instruments or gym mats and parallel bars as acceptable uses of these funds.

The Committee does believe that audiovisual equipment and scientific laboratory equipment in academic programs are proper uses of IV–B funds. Accordingly, the Committee directs the U.S. Office of Education to take these comments into consideration when promulgating regulations pursuant to the Title IV–B legislation.

(3) Lack of innovation in compensatory education

During hearings on Title I of ESEA, the Committee heard testimony regarding the need for more innovation in compensatory education programs. For example, a longitudinal survey of the Title I program by SRI International found that in each grade studied, Title I students lose at least three months in achievement gains during the summer, although other studies do not confirm this finding. Yet, few districts fund summer programs due to limited allocations; according to the SRI study, districts with "summer bridge programs" have recently even begun to eliminate or reduce them. A second example of an area which has not been adequately explored is parent education related to compensatory programs, even though all available evidence shows that parents are a vital force in promoting academic progress.

Secretary Califano also recommended authorizing funds for this purpose because, according to his testimony, "there is no systematic Federal or State initiative designed to explore ways of improving practice in compensatory education—despite the substantial investment and persistent need in this area". It should also be noted that the author of the Rand Corporation study of innovation believed that targeting innovative funds on particular areas such as compensatory education can serve to catalyze local commitment to continue the project after Federal funding ends.

From all indications, districts are hesitant to use Title I funds for this purpose not only because funds are limited but also because they are just now beginning to see achievement gains using proven compensatory education techniques. Consequently, the Committee has adopted an amendment requiring that half of the additional appropriations for IV–C, beginning in 1980, must be used for innovative compensatory education programs. By giving the above examples, the Committee does not mean to limit school districts only to funding these sorts of innovative compensatory education projects.

(4) Need to experiment with better coordination

Throughout the year-long series of hearings, the Committee persistently uncovered instances where Federal programs were poorly coordinated with each other or where Federal and State programs were not coordinated, even at the school building level. For example, some districts were using Title I and ESAA funds for the same types of compensatory education programs for the same children.

Therefore, the Committee has authorized the use of IV–C funds by States to experiment with trying to bring about a greater coordination of Federal, State, and local funding within particular schools. Hopefully, enough experimentation will have been done at the local level within the next few years that Congress will have a body of experience to call upon regarding recommendations for changes in 1983, when all of these programs must be reviewed again for renewal.

(5) Lack of local commitment

As noted before, a major problem in Federal innovative programs is getting the local districts to continue the projects from their own funds once Federal funding terminates. Although States for the most part have limited Part C projects to three or five years of Federal funding, the Committee feels this ought to be clearly spelled out, so that other districts can benefit from Federal seed money. Also, according to the Rand study, the reason many federally-funded innovative projects are not continued after the grant period is over is because "few districts adequately prepared themselves for sustaining or spending the changes resulting from even successfully implemented projects."

Consequently the Committee bill states explicitly that these Federal funds will be available for no more than five years and that the degree of Federal support will begin to decline in the third year. In this manner an applicant school district will know beforehand that the Federal funds are meant to be of limited duration and that the district itself will have to pick up an increasing portion of the costs in the last years of the demonstration.

(6) Single application

The present law requires districts to submit one application to the State educational agency for funds under both Parts B and C. Almost uniformly, witnesses felt this requirement causes confusion, frustration, and actually results in more paperwork for some districts.

The major problem with this requirement stems from the fact that Part B funds are distributed on the basis of a formula, while Part C funds are granted through a state-wide competition involving a detailed application review process. According to several witnesses, Part B requires only a few pages of information and therefore an application takes far less time to complete, whereas Part C requirements involve much more detail. Consequently, the Part B approval and funding process must wait until Part C application data is completed and received. In addition, a district must compute maintenance of effort differently for Part B than for Part C. Finally, a district can apply for more than one Part C grant, while districts are eligible for only one Part B grant.

Therefore, the Committee has decided to delete this requirement for a single application for all of Title IV funding, and instead to permit the filing of separate applications. The original amendment was intended to cut down on unnecessary paperwork; but unfortunately, it seems that more problems were created than solved.

(7) Participation of private school children

One of the original intentions of the old Title II program was to benefit private school children in a constitutional way; and traditionally, private school children have had strong participation in the Title II program. Since the consolidation, the Office of Education estimates that the percentage of funds expended for Part B benefits to private school children—7 percent of the total Part B allocation—corresponds roughly with the percentage of eligible private school children in the school population. In addition, OE testified that private school children participated in all the Part B components.

The U.S. Catholic Conference testified that parochial school officials rate this program as the most equitable and the fairest in providing services and benefits to non-public school children. The Conference did note, however, that a problem arises with the Title IV–B legislation where a school district is unable, ineligible, or unwilling to participate; the private schools within that district's boundaries are automatically denied benefits.

Regarding Title IV–C, the U.S. Catholic Conference testified that participation of private school children in Title IV–C was seriously deficient, with parochial schools participating in only 50 percent of Part C projects. The Catholic Conference pointed out that this was due in part to the competitive grant process, whereby public educators plan an innovative program to meet the needs of the public school children, then write the private school children in for participation, even though the project may be ill-suited to meet their needs.

The Office of Education also found that while 2.5 percent of public school children participate in Title IV–C funded projects, only 1.6 percent of private school children do. These officials asserted that many IV–C grantees do not have private schools within their boundaries and that some private schools may be ineligible because of discriminatory practices; but, nonetheless, the Committee believes that the degree of participation of private school children under IV–C is not adequate.

The Committee has, therefore, amended section 406, the provision requiring the participation of children enrolled in private schools, to add a new paragraph (a)(2). The intent of this new paragraph is to provide authority for State educational agencies to make the necessary arrangements for the provision of services to private school children in a situation where a local education agency does not participate in the Title IV program. It is hoped that this provision will help to resolve the problems mentioned above with both Parts B and C.

The Committee bill also amends the section regarding aid to State departments of education. This new paragraph requires the expenditures of Federal funds authorized for the strengthening of State departments of education to be used to provide services for non-public school children. It should be noted that the general requirements of section 406 with respect to the participation of private school children are applicable to the State department funds as well as to the program areas authorized by this Title. Consequently, it is the intent of this Committee that these funds be used in such a manner as to be in compliance with section 406 of this Title.

(8) Federal administration and regulations

The Committee would like to note that it has been disturbed since the enactment of the Title IV consolidation in 1974 at the continued fragmentation in administration of these programs in the Office of Education. Although these programs were consolidated into a single title, they continued to be administered by two separate offices within OE, and apparently very little coordination exists between these program offices. At the very least, the Committee expects the Commissioner to provide greater direction and control over these programs in Title IV and to assure that they work together in harmony and maintain close liaison and contact so that confusion among recipients of Title IV funds is not continued and compounded.

A last point the Committee would like to mention has to do with the regulations presently controlling the uses of IV–B funds. These regulations require local school districts to use the funds they receive due to the consideration of the number of "high-cost" students in the districts only on such students. The Committee believes that this regulation exceeds the law and imposes too much of a paperwork burden on local school districts. It is, of course, expected that such students will receive their fair share of the benefits available from these funds; but to require such a strict accounting for such relatively small grants as are available under IV–B is too unreasonable to expect.

(9) Continuation of Title III of the National Defense Education Act

The Committee bill extends the authorization of appropriations for Title III of the National Defense Education Act, which provides funds for audiovisual material and equipment. Although this is one of the programs consolidated in Title IV, the Committee bill extends its authorization until fiscal year 1983 so that funding authority can revert back to Title III if the appropriations conditions discussed earlier are not met.

TITLE V—GRANTS TO STRENGTHEN STATE DEPARTMENTS OF EDUCATION

The Committee bill extends the authorization of appropriations for Title V of the Elementary and Secondary Education Act until fiscal year 1983. Although Title V is one of the programs consolidated in Title IV of ESEA, the Committee bill extends its authorization so that funding authority can revert back to Title V in the event the appropriation conditions spelled out in Title IV are not met.

TITLE VI—MISCELLANEOUS PROGRAMS

Title VI of H.R. 15 includes amendments to miscellaneous education programs authorized in the Education Amendments of 1974 (P.L. 93–380) and in the Education Amenudments of 1976 (P.L. 94–482). The title also creates new programs which the Committee feels are necessary to meet urgent needs and separately authorizes several programs now contained in the Special Projects Act which the Committee feels will benefit from an independent identity.

Title VI of the bill includes all of these programs in a new Title VI of the Elementary and Secondary Education Act. The present Title VI of ESEA is vacant since all of the handicapped education programs were moved to their own act in 1975.

Part A: National Reading and Mathematics Improvement Act

(1) Overview

The National Reading Improvement Act, as authorized in P.L. 93–380 and amended in P.L. 94–194, seeks to improve the reading skills of citizens of all ages to enable them to function effectively in society. This Act gave legislative authority to the Right to Read program, a Commissioner-initiated effort to eradicate illiteracy in the United States. Appropriations for this program have grown from $11 million in fiscal year 1972, when the program was funded under the Cooperative Research Act, to $27 million in fiscal year 1978.

The Act includes the following components:

—State leadership and training funds to State educational agencies for inservice training, technical assistance and dissemination of information. Currently, all 50 States, the District of Columbia and two territories receive grants totaling about $4.7 million.

—Local reading improvement projects assist local school districts in developing and implementing innovative reading programs for preschool and elementary children. In fiscal year 1977, 145 State and local educational agencies and nonprofit institutions received grants totaling $7.6 million.

—Special emphasis programs to determine the effectiveness of reading instruction by reading specialists in the classroom. In fiscal year 1977, seven school districts were awarded contracts totaling $956.302.

—Reading academies to provide special reading instruction to youths and adults who do not have access to such instruction. In fiscal year 1977, 82 academies were funded at a total cost of $5.7 million.

—National impact programs to develop and disseminate innovative projects of national significance. Recent activities have included films, an elementary principals' training program, position papers and a project for involving the private sector. Total fiscal year 1977 obligations were $568,766.

—Inexpensive book distribution program under which a contractor, Reading is Fundamental, Inc., subcontracts with private nonprofit and public organizations and agencies to distribute books to students to improve their reading motivation. By the end of fiscal year 1978 it is estimated approximately 25 million books will have been distributed to close to six million students as gifts, loans, or at nominal cost. Appropriations were $5 million for fiscal year 1978.

Another component, the State reading programs, has never been funded because the legislation stipulates that local reading improvement project appropirations must exceed $30 million before the State programs would take effect. Also unfunded has been the television teaching provisions which is repealed by this bill.

(2) Problems

This Act has undoubtedly been of assistance in helping to improve reading skills of participants. But the need for such assistance is so great that the National Reading Improvement Act, with its limited appropriations, has had only a minimal impact on the nation's reading problem.

New definitions of literacy which attempt to assess a person's ability to function competently in society indicate that the problem may be more widespread than originally thought when Right to Read began. A recent study of adult performance found that as many as one in five of the population over 18 could be considered functionally incompetent. In its 1975 survey of reading achievement, the National Assessment of Educational Progress showed that 13 percent of 17-year-olds were functionally illiterate, with functional illiteracy among some minority groups ranging as high as 42 percent.

In the area of mathematics, the National Assessment found that while the majority of 17-year-olds and adults has mastered fundamental matematical skills, many are unable to apply them to everyday situations. For example, 45 percent of adults could not read a Federal income tax table correctly, and less than half the 17-year-olds could determine the more economical size of a product.

These problems, coupled with a continuous decline in scholastic aptitude verbal and mathematics test scores over the past decade, indicate that there is a continuing need for special instruction in reading and mathematics.

However, the number of persons reached by most of the Right to Read programs is so small as to barely make a dent in the illiterate population. For example, the local reading improvement projects affect less than 1 percent of the school districts in the country. According to one State reading director it would take 2,000 years to reach the target population in his State at that rate. The special emphasis programs affect 3,100 students indirectly and even less children directly. The reading academies serve 30,000 youths and adults, but this scarcely represents a strategy for helping the 23 million functionally-incompetent adults.

Even the national impact programs have not affected significant numbers of people, according to a statement of findings from a recent GAO investigation of the Right to Read programs. Although the argument can be raised that Right to Read is intended to demonstrate effective techniques rather than serve large numbers of persons, the GAO found that neither the reading improvement projects nor the reading academies operated as demonstrations and that dissemination of Right to Read experiences in general has not been widesperad.

One program that does appear to have had more than a minimal impact on literacy deficiencies is the State leadership and training component. According to the OE Right to Read director, these State programs have been successful in assessing state-wide reading needs, training local reading leaders and providing technical assistance and support services to local districts. Fifty-eight percent of State directors reported that all districts in their States would be involved in the effort in the next four years. Certification requirements for reading teachers have been strengthened in 65% of the States.

By 1975, 3,400 districts were participating in State leadership programs and by 1976, over 15,000 personnel were trained; in turn, these personnel have affected reading instruction in their districts.

Consequently, the Committee bill proposes to build on this experience at the State level by changing the structure of the Act to make it mostly a State-administered program, rather than an OE-administered program as presently provided. The States obviously have the primary responsibility for education and their leadership can make the difference in whether these limited funds are used most effectively.

The Act's impact on national basic skills deficiencies has also been hampered because it does not permit projects to be funded in secondary schools or in mathematics. As demonstrated by the statistics cited earlier, the need for expansion into both these areas is great. Consequently, the Committee bill proposes to make such amendments.

Coordination with the other $1 billion worth of Federal programs to improve reading skills would be one means of enhancing the impact of Right to Read. But although these other programs were originally intended to benefit from the findings of Right to Read projects, the GAO found evidence of little coordination or interaction between Right to Read and other programs. At the Federal level, GAO noted that no formal coordination process existed. At the State level, GAO found that none of the States surveyed had implemented a structure to coordinate all Federal, State, and local reading programs, although each State engaged in some coordination activities. At the local level, GAO found, and OE officials concurred, that coordination of reading efforts was limited, even within a single school.

The Committee has not proposed any particular amendment which would be said to solve this problem easily; rather, the Committee recognizes hat the problem is inherent in having a number of categorical programs focused on sometimes overlapping populations. But the Committee expects that the amendment to make the reading program a State-administered program and the amendment requiring States to place a priority in funding on local programs involving other sources of Federal funds will at least give the States and local school districts an opportunity to try to better coordinate all of these services. A good part of the problem of lack of coordination rests with having categorical programs, but a very good part also rests with State and local administrators not trying hard enough to mesh their programs for the best results. This type of coordination is taking place in some areas, and we urge all who receive these funds to make a real effort to do so.

The division of the Act into several small programs with very limited appropriations may also be impeding its effectiveness by reducing its flexibility. In addition, there is some evidence that several components may no longer be necessary, may not be achieving results, or may require minor amendments to fulfill their goals.

For instance, the Office of Education recommended deleting the authority for special emphasis projects because its purpose will have been accomplished by 1978, because it could be funded under the national impact section, and because the high costs of these models would preclude most districts from adopting them. Consequently, the Committee has removed the authority for special emphasis projects.

Aside from the problems with the local reading improvement projects already discussed, the GAO found no significant differences in reading achievement for students participating in these programs compared with their peers. In addition, the OE program director testified that the requirements for these programs are so numerous that a district's choice of approaches is severely restricted. Therefore, the Committee has eliminated the authority for the Commissioner to directly fund local school districts and has sought to simplify requirements for the State-administered program wherever possible.

The GAO noted that the more successful local programs encouraged parent involvement. Toward this end, the Committee bill explicitly authorizes States to make grants to support activities designed to enlist the assistance of parents working with schools to improve the skills of their children. These activities may include the development and dissemination of materials to parents to use at home and developing training programs for parents who wish to assist their children at home.

The Committee also approved a provision which applies that section of Title I pertaining to the participation of private school students to programs authorized through the "National Reading and Mathematics Improvement Program." This language together with that in section 603(f)(10) clearly indicates that the intent of the Committee is to insure that there be equitable participation of private elementary and secondary school children in these programs. It should also be noted that the requirements of Title I also allow for a by-pass to be used if effective and equitable participation is not realized by programs administered through the State and local educational agencies.

Lastly, the Committee's hearings and the GAO investigation showed that implementation of the inexpensive book distribution program was notably handicapped because of government-caused delays in establishing a letter of credit system. Although full operation has finally gotten underway, testimony indicated that greater efforts must be undertaken to make these books more accessible to various types of disadvantaged children. Consequently, the program is amended to permit some flexibility in the local matching requirements, especially for those programs benefitting migrant and seasonal farm workers.

Part B: Special Projects Act

The Special Projects Act, which was created in P.L. 93–380 and took effect in fiscal year 1976, gave the Commissioner of Education the authority to carry out projects to experiment with new educational methods, to meet special or unique educational needs and to place particular emphasis on national education priorities. This Act replaced the Cooperative Research Act, which had afforded the Commissioner the authority to spend discretionary funds on critical needs or experimental missions, and a number of small set-asides within several OE programs to be used by the Commissioner at his discretion.

The Special Projects Act identifies seven priorities which must be supported by at least half the funds. It further mandates a specific proportional distribution of funds among these seven categories (programs separated from the Special Projects Act in the Committee bill are discussed in detail in later segments of this report):

—Metric Education. Seventy-five grants totaling $1.045 million were awarded in fiscal year 1977 to States, school districts, higher education institutions and nonprofit and public groups. These grants supported projects to encourage educational agencies and institutions to prepare students to use the metric system of measurement.

—Gifted and Talented Children (discussed later).

—Community Schools (discussed later).

—Career Education. Over $10 million was devoted to this activity in fiscal year 1977. Funds were used for grants to 80 States, school districts, institutions of higher education and nonprofit organizations to support projects to demonstrate the most effective methods and techniques of career education.

—Consumer Education. The fiscal year 1977 appropriation for this section totaled $3.135 million and was used for 63 grants and contracts to develop curricula, disseminate information, and support model projects in consumer education. This section also attempts to meet the special consumer education needs of such target populations as low-income elderly, migrants, and limited English-speaking.

—Women's Education Equity (discussed later).

—Arts in Education. In fiscal year 1977 $1.750 million was appropriated for this program. Seven hundred fifty thousand dollars of this amount was set aside for 77 grants to State and local education agencies to make arts an integral part of elementary and secondary school programs, through an arrangement with the John F. Kennedy Center for the Performing Arts. One million dollars was used for contracts with the Alliance for Arts Education and the National Committee/Arts for the Handicapped.

After meeting the funding requirements for these seven areas, the Comissioner may then theoretically use the other half of the appropriated funds for educational activities which he feels are important. However, testimony of OE officials has revealed that several other provisions of the Act and some other pressures have severely restricted the Commissioner's flexibility with these so-called discretionary funds.

Since enactment of the legislation, five programs have received support from the Commissioner's discretionary authority. Three of these—career education, women's educational equity, arts in education—received funding from the discretionary authority to supplement funds under the mandated portion of the legislation. In the case of career education, OE wanted to continue its commitment to this area at a sufficient enough level to have a substantial impact. This could not be accomplished through the mandated portion of the Act without increasing appropriations for all the seven categories, so $7 million in discretionary funds were devoted to this program. Regarding WEAA and Arts in Education, Congress mandated in appropriations legislation that an additional $1 million for each program was to come from the discretionary authority, again so that the appropriations for all the seven mandated areas need not be increased proportionately.

The Commissioner then used the remainder of the discretionary funds to continue two programs which had previously been carried out under other authorities:

—Packaging and Dissemination, whereby $2.5 million was used to develop a more effective mechanism for promoting the widespread adoption of Federally-funded exemplary projects. The majority of these funds have supported a national diffusion network; and

—Educational TV, whereby $7 million was devoted to development of new educational programming and continuation on ongoing quality shows with national impact.

Thus, the continuation of existing commitments at sufficient levels and Congressional direction of additional funding to the mandated areas has precluded the Commissioner from inaugurating any new programs since the inception of the Act.

The requirement that awards from the discretionary money must be in the form of contracts also reduces the Commissioner's flexibility. According to Administration testimony, this requirement is cumbersome and discourages many successful applicants because payments cannot be made in advance.

The Act also specifies that the Commissioner must submit a spending plan for the discretionary funds to the House and Senate authorizing committees each year. This plan must describe all contracts over $100,000 made during the preceding year, and the Committees have the right to disapprove the plan.

The Committee has adopted amendments seeking to increase the flexibility available to the Department. There will now be no submission of a spending plan, the proportional distribution of funds is removed, and making grants as well as contracts is permitted. Earmarkings of funds, however, are still retained for several activities.

Within this more flexible structure, the Committee wishes to ensure that private school children with similar needs can participate in these projects in a manner consistent with other Federal education programs. Therefore, a new requirement is imposed that such children must be involved in programs funded under the Act.

It should be noted that this language includes a specific requirement that the needs of these children be taken into account through consultation with private school officials in the development of any proposal for which an application is made. The Committee also intends that such consultation would occur in the design and implementation in any program authorized under this part. Such consultation is considered essential to ensure that private school children participate equitably as is required by the statute.

The Committee bill reduces the number of mandated programs by removing several from the Act and giving them their own authorities in other parts of this Title. The bill also makes amendments where necessary to the remaining activities and creates two new authorities.

In light of the passage of the Career Education Incentive Act, P.L. 95–207, with its increased authorizations for implementation of comprehensive career education programs, the Committee feels the special projects career education authorization should be limited. P.L. 95–207 is based on the assumption that the career education demonstrations previously funded under Special Projects have sufficiently proven the worth of the concept. For that reason, future special projects authority is limited to activities which help to achieve the purposes of the Career Education Incentive Act and which have not been thoroughly explored, especially activities seeking better linkages between the educational and vocational systems and the training programs under the Comprehensive Employment and Training Act.

The Committee's purpose in adopting the language as now contained in section 627 is to emphasize the need for career education implementation, as called for under the Career Education Incentive Act. It is the hope of the Committee that the Career Education Incentive Act can be implemened in fiscal year 1979 and that the Commissioner will allow for Title VI, Part B (ESEA) funds to be used for those provisions spelled out in section 627 to help achieve the purposes of P.L. 95–207. However, neither the language nor the intent of this section should be interpreted as placing the provisions of the Career Education Incentive Act under Title VI of the Elementary and Secondary Education Act.

The Consumer Education program is continued as an authority under the Special Projects Act, with the stipulation that at least $5 million per year must be spent for these activities.

A new authority for preschool partnership programs is included to encourage cooperative pilot programs between local school districts and Head Start programs so that the transition of pre-school-aged children into school will be eased. This program will attempt to overcome some of the barriers many low-income children face when they start school, such as unfamiliarity with an institutional setting inability to communicate with teachers and unfamiliarity with tests.

The bill also creates a new authority for the Secretary to make small grants up to $25,000 to individuals and organizations for innovative purposes. This provision ensures availability of funding for testing and developing new and promising ideas.

Finally, the bill gives specific legislative authority to the aforementioned dissemination activities by specifying that at least 5 percent of the Special Projects funds be used for this purpose and that 70 percent of these funds be used for the National Diffusion Network.

The Committee bill adds a new section to the Special Projects Act establishing a grants and contracts program to support population education activities in elementary and secondary schools. Population education is the process by which an individual explores (1) the nature of population characteristics and variables; (2) the causes of population change; and (3) the implications of these phenomena for the individual, the family, the society and the world. Population education is a social studies course unlike sex education which is a health or biology course.

The population education process is envisioned as a systematic learning experience which reflects upon (a) characteristics, such as age, sex, race, geographical distribution, and (b) population variables; fertility, mortality, and migration. This educational experience is directed toward creating an understanding of population phenomena. It enables individuals to assess the possible and effective means by which they may respond to and influence population processes within the context of acceptable values and the moral responsibilities of membership in a family, society and the world community.

In 1976, a subcommittee set up by the Federal Interagency Committee on Education to review the status of population education in the United States concluded the following:

> Population education in the United States today can at best be considered an ad hoc effort. Some teachers have been trained in population studies, and a modest beginning has been made to develop curriculum materials. But these are scattered efforts which do not begin to meet the basic needs of the field * * *

There has been limited Federal support of population education through several channels:

(1) From 1970 to 1973 the National Science Foundation funded a number of summer teacher training programs in population education.

(2) The Office of Environmental Education (OEE), HEW, supports a few population education efforts under the Environmental Education Act which specifically includes population as a priority area in its grant program.

(3) The Office of Population Affairs (OPA), HEW, was designated by former Secretary Elliot Richardson as responsible for population education and an expert was brought on staff in 1972. This person has been given little responsibility and limited funds with which to work, however.

(4) In 1972, the President's Commission on Population Growth and the American Future recommended that the Federal government fund population education activities.

(5) The Subcommittee on Population Education of the Federal Interagency Committee on Education recommended in 1976 that "population education * * * should be considered a national educational

priority and the Federal government should provide leadership and support."

(6) In April 1976, the House Post Office and Civil Service Subcommittee on Census and Population held hearings on population education.

(7) Earlier this year, the House Select Committee on Population recommended that the Elementary and Secondary Education Act be amended to provide funds to support population education.

While Federal support for population education has been limited, the non-Federal sector has had some success in promoting population education. In 1975, the Baltimore City Public School System introduced population education into the school curricula. Other school systems throughout the country are now adopting the Baltimore program. In addition, a number of nonprofit organizations have been involved in population education activities, demonstrating local interest in this subject.

Local interest in population education has been demonstrated. The Federal support provided under this bill will enable these activities to be expanded. The funds available under Title VI will be used to support preservice and inservice training for teachers; the development and dissemination of teacher and student materials; population education programs in elementary and secondary schools; and demonstration projects. The Committee recommends that the program emphasize incorporation of population study into existing school courses, not the development of separate new courses. In addition, materials produced through this program should be evaluated to ensure that they present an objective discussion of the facts and issues.

The bill also provides for the establishment of a clearinghouse on population education within the National Institute of Education. The clearinghouse will have responsibility for evaluating, cataloguing, and disseminating population education materials.

The Committee recommends that the Commissioner of Education, who will have responsibility for administering the program, work in cooperation with the Office of Population Affairs in carrying out this program. The Commissioner should also appoint full-time staff to administer the day-to-day operations of the program.

PART C: GIFTED AND TALENTED CHILDREN

Funding and specific legislative authority for programs for gifted and talented children was first provided through the Special Projects Act in 1974, although the special needs and potential resources of these children had been recognized sometime before.

For fiscal year 1977 gifted and talented appropriations totaled $2.5 million. Sixty-eight percent of these funds were expended to strengthen State departments of education to comprehensively serve gifted and talented. In the 25 funded States, much was accomplished with these grants. The number of full time State consultants for the gifted increased from 12 to 20. Five of these States increased the number of gifted served by 60 percent. One State doubled its own appropriations for gifted, while another provided inservice training to over 1,000 teachers.

Eighteen awards of under $20,000 were made to exemplary projects in local educational agencies. According to testimony, these projects have been successful in such areas as identifying gifted and talented in minority groups.

Other activities funded include six model projects serving as demonstration sites, three leadership training institutes and development of information services.

Despite these successes, OE estimates that only 14% of gifted children are being served through these efforts. A conservative estimate of the gifted and talented school population ranges between 1.5 and 2.5 million children. Most of these children possess unique abilities requiring special provisions which are often not available in regular school programs.

The Committee, therefore, feels it is necessary to move the authority for such activities from the Special Projects Act and to create a separate program for this purpose. We hope that this upgrading and highlighting will lead to much greater efforts in this area. The authorization of appropriations have also been increased to help achieve this end.

Special services are particularly important for gifted and talented children from disadvantaged backgrounds, whose abilities may often go unrecognized. Therefore, the Committee has proposed earmarking half of the funds which must be spent locally on projects directed to identifying and serving such children.

The Committee proposes devoting a greater proportion of funds to local projects because the mechanisms for comprehensive approaches at the State level are already in place in many States, due to the success of the State component in the existing legislation. Fifty-five percent of the funds appropriated would have to be used for this purpose.

In addition, the Committee feels that sufficient research has not been conducted into the best methods for educating these children. Although some of the six model projects have been effectively disseminated, the Committee also feels that given the variety of talents and abilities that fall within the definition of gifted, more models need to be developed and disseminated. Consequently, fifteen percent of the appropriations would be earmarked for this purpose.

PART D: WOMEN'S EDUCATIONAL EQUITY ACT

The Women's Educational Equity Act, Section 408 of the Special Projects Act, makes grants available to public agencies, private nonprofit institutions, and individuals to advance the goal of educational equality for women. When it was first passed in 1974, it was intended to complement Title IX of the Education Amendments of 1972, which prohibits sex discrimination in employment and educational programs and activities in educational institutions.

Consequently, the mandate of WEAA is broad; it addresses all levels of education, permits a wide variety of activities to be funded, and includes a diverse range of eligible applicants. Given its limited apropriation of $7.27 million in fiscal year 1977, the program's administrators have chosen to focus on the development of model programs and products which can be made available for use by other institutions, agencies, and individuals, rather than to fund direct services to individuals or local agencies.

In fiscal year 1976, 46 grants were made to school districts, States, institutions of higher education, and educational and women's organizations to develop models in such areas as sex-fair counseling and program materials, training, and monitoring of sex discrimination policies. A preliminary assessment of these activities by an independent research organization and testimony of the National Advisory Council on Women's Educational Programs shows that many of these projects have been quite successful thus far.

Five contracts were let in fiscal year 1976 for such activities as developing and disseminating materials to assist institutions and agencies in complying with Title IX, to establish a communications network in educational equity, and to improve dissemination of WEAA funded projects.

Twenty-one small grants of $15,000 or less supported innovative approaches to achieving equity and included such projects as instructional materials development, addressing the needs of special populations of women and aiding women interested in non-traditional careers.

With the passage of Title IX, Congress mandated a national policy to end sex discrimination in education. However, the persistence of overtly discriminatory practices and confusion even among the well-intentioned about what constitutes equality and how it is achieved reaffirm the crying needs for more Federal assistance in this area.

Textbooks continue to reflect blatant sex bias and stereotyping. The percentage of females in traditionally male vocational courses has increased only 1 percent since 1972 to reach a level of 6 percent.

In athletics, girls still have fewer teams and sports to choose from, with less funding, equipment and access to facilities. In employment, women presently hold less than 2 percent of senior high principalships.

No matter how successful, the number of projects supported with WEAA's limited funding can go only a short way in meeting these needs. Certainly, the demand for WEAA-type services is great. The demand for the Title IX materials which were developed under WEAA exceeded 80,000, and requests are still coming in at the rate of 100 per month. In fiscal year 1976, applications for WEAA funding totaled $105 million, 18 times the amount available. The OE program director estimated that the number of applications would have been far greater had OE had the resources to fund general support programs in school systems. Other witnesses pointed out that the WEAA appropriation, which addresses discrimination problems of over half the population, does not begin to match the appropriations for programs concerned with other types of educational equity, which total hundreds of millions of dollars.

Committee testimony also revealed that the program suffers from its placement in the Special Projects Act. For WEAA to be funded at the $30 million level, appropriations for the entire Act would have to total $200 million. It was generally felt that if the Special Projects Act is intended to "try out" new initiatives, then WEAA has proven its worth and merits expansion into a categorical program with a separate authorization more in line with the need for assistance.

Finally, the legislation makes no distinction between projects with a national impact such as those now being funded and projects which encourage institutions to explore new approaches for providing direct services to students and staff, and this may be limiting the program. As a consequence, OE has made the reasonable decision that limited funds would have a greater impact if devoted to the first type of project. However, this decision has had the effect of limiting the number of local educational agencies and organizations receiving grants. Over half the funds go to higher education institutions because they generally possess the capability and experience to conduct research and demonstration of this type.

Several witnesses believed that these problems could be overcome if the two different functions—national demonstration and local service—were separated, with clear directions regarding funding for each. The Committee has accepted that advice and proposes to upgrade the program and also to specify more clearly the types of activities which can be funded.

The amendments propose to remove the program from the Special Projects Act and to establish it as a separate program, with a requirement that the first $15 million of appropriations is to be used for projects of national significance, and for the dissemination of both information and project materials related to achieving educational equity.

The excess of $15 million is to be used for assisting local institutions to initiate more equitable practices; these may be based on locally developed plans, or may implement one or more of the practices or models developed under the first part of the program.

Obviously, districts and institutions involved in legal or administrative enforcement actions to comply with Title IX will need such assistance in order to make immediate and effective changes. However, it is definitely not the intention of the Committee to limit assistance to such districts and institutions. On the contrary, the new structure of the program is specifically designed to prevent the necessity of broad legal actions by providing both the means and the motivation to change local practices before issues of equity reach the stage at which legal action is required. Nor is it the intention of the Committee to limit assistance under this program to promoting change in only those areas subject to Title IX legal action. Some areas such as school curriculum do not currently fall under Title IX guidelines, but are clearly a crucial part of establishing educational equity for women and men alike.

In order to establish patterns of genuine educational equity, much change must be accomplished at the elementary and secondary school levels. Therefore, seventy-five percent of the local funding (that is, funding above the first $15 million) is to be reserved for assistance to local educational agencies to help them provide educational equity for both sexes. At all levels of education, community involvement is an important component of achieving educational equity. Small grants of up to $25,000 each are also authorized to support innovative approaches. The authorization of appropriations is substantially increased for all of these purposes.

PART E: COMMUNITY EDUCATION

The Community Schools Act, presently under the Special Projects Act, stresses greater use of public facilities, including public school buildings, to provide educational, recreational, cultural, and other services to the surrounding community. Building upon an American tradition of using schools for many different activities, the Act seeks to carry out this purpose by involving community members, groups and agencies in planning programs appropriate to community needs and interests. Appropriations totaled $3.553 million in fiscal year 1977.

The legislation authorizes grants to:

—School districts for initiating, expanding, or maintaining community education programs. In fiscal year 1976, 48 districts were funded with an average grant of over $32,000.

—State educational agencies for providing developmental and technical assistance to local programs or for directly administering community education programs through the public schools. Thirty-two States were funded in fiscal year 1976 at an average level of $48,875.

—Institutions of higher education to provide short-term training programs to individuals involved in operating community education programs. Thirteen of these institutions were awarded grants averaging over $32,000.

Approximately 47.8 percent of these funds go to rural areas and 52.2 percent go to urban areas. Approximately $1.5 million was allocated to States, $1.5 million to school districts, and the remaining $0.5 million to institutions of higher education.

According to the OE program director, some of the State programs have been extremely successful in furthering the purposes of community education. For example, in Kentucky, which received a Federal grant, 87,700 citizens were involved in community education programs in 35 districts. New Jersey put $200,000 of its own funds into program development, and these funds are being overmatched two or three times by school districts.

Some recent trends have converged to make community education a particularly attractive approach. First, elementary and secondary school enrollments will decline between 1970 and the mid-1980's. Using school facilities to provide services to other segments of the population represents one alternative to closing school buildings that are no longer filled to capacity. Second, recent NIE study of school violence found that the cost of school vandalism runs about $200 million annually and that more acts of vandalism occur during nonschool hours. Since community education extends the use of school facilities beyond normal school hours, incidents of vandalism are likely to decrease in these facilities. Third, the demand for preschool services, health services, and adult learning activities is growing as women join the labor force, as the cost of medical care increases, and as people have more leisure time.

Recognizing this potential of community education, districts are becoming increasingly interested in implementing their own programs. Over 1,000 applications were received by OE during the first two years of the program's operation, and approximately 4,000 persons have attended meetings on the Federal program.

The limited appropriation has prevented more than a small portion of the applicants from being funded. In addition, the size of the individual State grants would fund no more than one or two local programs; therefore, most States have concentrated on activities like workshops and technical assistance which cost less but have a more far-reaching impact.

The Committee feels that the benefits to community education should be made available to more districts in all parts of the country. However, the Committee also realizes that given the limitations on Federal funds, larger amounts of State and local monies will be necessary to expand and maintain these programs once the initial development is underway. To be successful, local programs will also have to coordinate their activities closely with existing community programs of all types funded by a variety of sources.

Therefore, the Committee proposes to upgrade the program by removing it from the Special Projects Act and establishing it separately, change the administration from the Federal to the State level, and require State and local matching of Federal funds. Furthermore, in the belief that the primary responsibility to fund such activities rests at the State and local levels, the bill proposes to gradually increase and then decrease the authorization of appropriations over the five years of the program and to gradually increase the required State and local share.

The bill also permits the Federal funds to be used to pay for the non-Federal share of other Federal programs in order to encourage the operation of those programs in schools, and requires that two national conferences be held on community education. The NIE would also be directed to conduct research and evaluation on the concept of community education and programs supported under this Act.

PART F: BIOMEDICAL ENRICHMENT

On March 2, 1978, the Committee conducted a hearing on H.R. 10736, a bill authorizing biomedical enrichment programs for secondary school students from disadvantaged backgrounds. During this hearing, the Committee learned of some alarming statistics regarding the needs of deprived urban and rural areas for more physicians and the under representation of disadvantaged students in the biomedical professions.

Hundreds of thousands of persons in this country suffer from inadequate health care because they live in areas with disparingly few or no accessible physicians. Rural areas with populations under 10,000 possess an average of one doctor for every 2,512 individuals, compared with one for every 511 individuals in metropolitan areas. Yet in some central areas of large cities, there are no doctors for literally thousands of persons. One area of New York City with 22,000 residents is served by a single physician.

The most obvious strategy for improving this situation is to train large numbers of health professionals who would be most likely to practice in medically underserved areas. Testimony before the Committee emphasized, and various studies confirm, that people most likely to go into practice in these areas are minorities, persons from low-income families, and persons who come from these areas themselves.

However, all the above types of persons are woefully underrepresented in the biomedical professions. For example, the latest study of the American Medical Association shows that all minorities constitute only 8.2 percent of medical school students, far below their proportions in the general population. Although progress was made in recruiting minority students during the 1960's these proportions have stagnated in the past few years due to court challenges to preferential admissions policies and the intense competition for places in medical school. Other studies have shown that the majority of medical students come from families that earn over $15,000 per year, and that those from low-income families are severely scarce.

This pattern of underrepresentation stems from several social, economic, and academic barriers. Most importantly, students from disadvantaged background, even though they may be bright, are usually not adequately prepared academically to qualify for admissions through standardized tests, a strong math and science background and other educatioanl criteria. Too often, these students are not encouraged to take advanced courses in mathematics and science. In other cases, the schools they attend may be educationally inferior or may not offer such courses at all. One black medical student from a rural area testified that although he had graduated from high school with a 3.96 grade point average, his exposure to the types of materials required for a pre-medical course was minimal.

Bright disadvantaged students are also stymied from pursuing medical careers by a lack of proper counseling and encouragement and a lack of awareness of existing opportunities. Finally, the high cost of a medical education often prohibits some talented young people from even considering such an option. A National Institute of Health study showed that the cost of training was always at the top of the list of factors determining career choices for black college graduates.

Once such students are admitted to biomedical training programs, other problems emerge to decrease their chances of successfully completing the program. Often disadvantaged students are overwhelmed by the keenly competitive environment, the amount of discipline required, and technically-advanced course content. For example, black students at biomedical schools have a repeat rate of 14.4 percent compared with a repeat rate of 1.2 percent for non-minority students.

It is important to note that most of these key factors affecting a student's chances for a biomedical career are determined before he or she enters high school. During these years, a student decides whether or not to take advanced mathematics and science courses and develops necessary study habits.

The Committee concludes that only by implementing effective high school programs can the pool of disadvantaged students applying to medical school be increased and the problem of underrepresentation of disadvantaged groups in the medical profession be addressed.

The Committee heard testimony regarding a successful program along these lines, the Premedical Research and Education Program in New York City, which selects promising minority students from area high schools and exposes them to intensive college preparatory courses, counseling, and practical work in health institutions. According to the program's directors, these experiences vastly improve the students' chances for admission to and success in medical school. A preliminary analysis of the 300 some graduates of the PREP summer program indicates that of the 42 percent who applied to medical schools, 77 percent were admitted. This is almost double the average acceptance rate of black applicants.

Therefore, the Committee proposes to establish a new Federal program patterned on the PREP program in New York. Grants would be available to colleges and universities if they would agree to establish after-school hours courses for economically-disadvantaged youth and to offer them training opportunities in biomedically-related areas in the summer. These institutions of higher education would have to work with high schools enrolling such students in order to give them a unified educational program. Private school children are also explicitly made eligible to participate in the programs funded under the Act.

A most important aspect of this program would be the provision of a multiyear program which integrates specific subject matter training in mathematics and the sciences with summer work and study experiences and exposure to professionals in the variety of biomedical related fields who are from minority or disadvantaged backgrounds. Thus, students receive continued assistance, instruction and support not for a single course or semester, but over a period of years long enough to develop both the skills and the confidence needed for eventual success in these professions. Insofar as program funding will allow, special attention should be given to establishing programs in both urban and rural areas, and to achieving a balance of such activities in the various geographical areas of the Nation.

PART G: ETHNIC HERITAGE STUDIES

The Ethnic Heritage Studies Act, presently Title IX of the Elementary and Secondary Education Act, provides Federal assistance for development and dissemination of curriculum materials, for training of teachers, and for cooperation with community resource people and organizations, related to the American ethnic experience. The legislation seeks to recognize the contributions of ethnic groups to American society, to afford students an opportunity to learn more about their own and other heritages, and to reduce social divisiveness. The Act authorizes assistance to public and private nonprofit educational and community agencies, institutions, and organizations.

Appropriations for the Act totaled $2.3 million in fiscal year 1977. From fiscal year 1974 to fiscal year 1976, 140 grants were awarded, some focusing on the experience of a single ethnic group, others on the heritage of several groups, and a few on issues relevant to all ethnic groups. In the first and second years of the program, development and dissemination of materials was stressed; for the third year, the emphasis was on teacher training.

Projects funded by the Act include development of course outlines, ethnic plays and films, neighborhood ethnic histories, oral histories from elderly citizens, workshops, and ethnic awareness sessions. All projects are funded for one year, with an average grant of $37,000.

From available evidence, it appears the Act is successfully meeting its objectives. An assessment of the projects funded in 1975 showed that there is a wide and growing use of the curricular materials developed under the program by teachers, libraries and State historical societies.

Three States are requiring multicultural or ethnic heritage studies state-wide, and some school districts are using Title IX materials in conjunction with school desegregation activities. There are also indications that cooperation between grantees and community ethnic groups or persons with special interest in ethnic studies has been fruitful.

Therefore, the Committee proposes to extend the Act through fiscal year 1983. The Act would also be removed from Title IX and placed with the other miscellaneous educational programs in the new Title VI of ESEA.

TITLE VII—BILINGUAL EDUCATION

OVERVIEW

For the past 10 years, the Bilingual Education Act, Title VII of the Elementary and Secondary Education Act, has funded programs of instruction in two languages to meet the needs of children with limited English-speaking ability. Fiscal year 1977 appropriations for the Act totaled $115 million. Seventy five percent of these funds were spent for grants for basic demonstration programs to over 425 local educational agencies in 47 States and outlying areas. Just over 60 percent of the funds are expended on Spanish-language programs with the remainder being spent on multi-lingual program (including Spanish) and on programs involving one of 67 other languages.

The remainder of the funds under the Act are used for a variety of support services, including grants to institutions of higher education to develop and improve teacher training programs, graduate fellowships to prepare trainers of teachers, grants to States for technical assistance, and funds for a Title VII network consisting of 15 resource centers, 14 materials development centers, three dissemination and assessment centers and a national clearinghouse. Under the program, 100 institutions of higher education are offering teacher training to an estimated 25,000 personnel. At the graduate level, the fellowship program offers advanced degrees in 42 institutions reaching about 500 candidates.

About 57 percent of the basic local educational agency grants reach urban areas, 36 percent reach towns and suburban areas, and about 6 percent reach rural areas. The majority of programs are concentrated in California, Texas, and New York. Nine States did not operate any Title VII programs in fiscal year 1977.

PROBLEMS

The Bilingual Education Act seeks to address the unquestionably dire need for special services for the significant portion of the school population with limited English ability. Pending completion of a more comprehensive survey, the National Center for Education Statistics has identified about 3.5 million students with limited English-speaking ability who could conceivably benefit from bilingual education. Although these statistics have not as yet been verified, the present Title VII program nonetheless serves only about 250,000 of them.

Generally, children of limited English-speaking ability have much lower achievement levels in the basic skills. An Education Commission of the States survey found that Hispanic students in the Northeast were almost 18 percentage points below the nation in social studies and 17 percentage points below the nation in math. Testing of French-speaking students in Maine revealed that by the eighth grade, about 80 percent were below grade level in math, social studies and science. By the time students reach secondary level, these achievement lags accumulate to produce a staggering dropout rate. The median level of education among the Spanish-surnamed is only 9.6 years. Only 27 percent of Puerto Rican students graduate from high school.

These statistics certainly seem to emphasize the need to find suitable techniques for improving the English language skills of those children who will some day have to compete in an English-speaking society.

Recent court cases have not only emphasized the serious deficiencies faced by children of language minorities, but have also placed responsibility on the schools to offer programs to remedy this situation. Of 275 districts examined for non-compliance in treatment of language minorities by the HEW Office for Civil Rights, 222 were found to be out of compliance with OCR regulations.

Although the need for special instruction for these children is well documented, a number of problems have surfaced in existing Title VII programs which have called into question the present bilingual approach and have demonstrated a need for some changes in the legislation:

(1) The current approach to bilingual education

The first national evaluation of bilingual education supported by the Office of Education and conducted by the American Institutes for Research raises some serious questions about the viability of the bilingual approach. After reviewing 38 Title VII Spanish-speaking programs in their fourth or fifth year of operation, the study concluded that non-Title VII Hispanic students outperformed Title VII students in English language skills; that Title VII students generally performed better than non-Title VII Hispanics in math skills; and that participation in Title VII did not affect attitudes toward school-related activities. The study also found that less than one-third of students enrolled in Title VII were of limited English-speaking ability, although 75% were of Hispanic origin. The author of the study testified that "there is no compelling evidence in the current data of the Impact Study that Title VII bilingual education as presently implemented is the most appropriate approach for these students."

Many individuals and groups have hotly contested these findings. Several witnesses at Subcommittee hearings noted that determinations of English-speaking ability in the study included no assessment of the actual language proficiency of the students. Several also contended that, among other factors, the AIR Title VII and non-Title VII groups were not comparable in Spanish and English language skills. Dr. Michael O'Malley, Senior Research Associate, National Institute of Education, testified that "it would be totally unwarranted to conclude that bilingual education, Title VII, or even this particular sample of Title VII programs is not producing the expected English language and effective outcomes".

Other data from individual projects show achievement gains in reading and other subjects for Title VII participants. The Office of Education has identified 18 Title VII programs which have been analyzed and have demonstrated clear achievement gains for participating students.

Based on the lack of national data regarding other types of Title VII programs, the lack of national evaluations of other approaches to English instruction, the evidence of gains in individual projects, and the support for the bilingual approach from involved teachers and students and language group organizations, the Committee feels a need for program change as well as for further research, demonstration, and evaluation to determine what constitutes a good program of bilingual education. Testimony from other witnesses reaffirmed this conclusion.

The Commissioner's Report on the Condition of Bilingual Education of 1977 found that "there is little to guide educators in designing and implementing effective bilingual projects". The National Association of Bilingual Education testified that only a small number of program models have been identified to date.

At the local level, a GAO report on bilingual education noted that evaluations for individual projects "have been inadequate for measuring programs' effect on student achievement and * * * have been inadequate for identifying projects worthy of replication". Poor self-evaluation designs proliferated even among the best projects, GAO continued.

Consequently, the Committee bill increases the authorization of appropriations for research and development on bilingual education from $5 million a year to $20 million a year. The bill also requires each local project to provide for its own evaluation. It is hoped that these amendments will all lead to greater knowledge within the next several years about what is most effective in bilingual education.

(2) Students to be served

Part of the confusion surrounding the AIR study's definition of English dominance stems from the inadequacy of the present definition of the target population. Although there is general agreement that the students with the greatest need ought to be served first, the current definition ignores the variety of communication skills that constitute true competency in the English language and focuses only on speaking ability. Conceivably, a child could have fair English-speaking ability, yet not be able to read, write, or understand English; under present law, this child would not have the greatest need for services.

For this reason the Committee bill broadens the definition of the type of child who can be served in a bilingual education program. Presently, only those with "limited English-speaking ability" are eligible for services and this definition of speaking ability is restricted to simply speaking and understanding English.

The Committee bill broadens this criterion for eligibility to include those who cannot read, write or understand English at the level appropriate for their age and grade. These children will now be called children with "limited English language skills."

A second issue concerning eligibility revolves around the extent to which English-speaking children should be permitted in Title VII projects. Children of limited English can learn from their peers, and by the same token English-speaking children can benefit from contact with other languages and cultures.

The problem lies with finding the optimum ratio of English-speaking children so that they will not dilute the already limited funds impede the program's purposes. A witness from Colorado testified that the 50–50 ratio used in their State program has worked well and has garnered support for bilingual education from a wide base of parents.

The Committee bill deals with this issue by adopting separate rules for so-called "pull-out programs" and for regular classroom activities. For pull-out programs only children who have limited English language skills may participate since it is felt that the full attention of the teaching specialists should be concentrated on these children for those periods of time. For regular classroom instruction a rule is adopted encouraging the proportionate participation of English-speaking students in bilingual instruction, based upon the number of such students in the school. This amendment was adopted because it was felt that in the regular classroom both English-speaking children and children with limited English language skills could benefit from one another during regular course work.

Other amendments adopted affecting student eligibility include those requiring local projects to concentrate on those children most in need, requiring the setting of goals for such children, and requiring the provision of the necessary follow-up services for children leaving bilingual classes. The present law is silent on those provisions, and the Committee feels their inclusion will strengthen the program.

The Committee bill also strengthens the present law's requirement for the participation of private school children in bilingual education programs. In this regard the Commissioner will now be authorized to either withhold approval of an application if it is not in compliance with the requirements for the participation of private school children or to withhold a portion of the funds necessary for the Commissioner to provide the services through another arrangement other than by the applicant if these requirements are not met.

The Committee adopted this amendment in response to the serious problems of a lack of participation of private school children in bilingual education programs authorized by Title VII. It is the clear intent of the Committee that there be equitable participation of these children in Title VII programs. The Committee strongly desires that the programs be administered by the Commissioner in such a manner that there will not be a need to utilize the additional authority provided in these amendments. However, recognizing the occurrence of serious problems which may be unavoidable, the Committee felt it necessary to provide needed administrative remedies to ensure the equitable participation which it clearly intends.

(3) Types of services to be provided

Since the inception of the Act, debate has raged unresolved over the extent to which native languages should be taught and at what stage students are ready to move out of the bilingual program. Although the Office of Education maintains that the goal of the program is to use the native language to move children toward English competency as efficiently as possible, witnesses from Title VII programs testified that children are kept in the program even after they achieve competency in English. The AIR study found that 85 percent of the project directors indicated that students remain in the program once they are able to function in school in English.

Controversies over so-called maintenance or transitional approaches tend to confuse the issue, since these terms mean different things to different people and since there is general agreement that some instruction in the native language is necessary to help students strengthen language skills and development in other academic subjects.

Essentially, the problem centers on the fact that no adequate definition exists of the level of proficiency a child must have to function well in the educational system. Within the parameters of the Act, such decisions must therefore be left up to the local people who have daily contact with the child.

The Committee bill deals, to a certain degree, with this issue by broadening the definition of children who can participate in programs to include those with an adequate English-speaking ability but who have difficulty reading, writing, or understanding English. Under this broadened definition, though, the local school district would still have the responsibility for making determinations of which individuals would participate in accordance with the other requirements of the Act.

Regarding the question of whether bilingual programs should have a cultural component, the Committee bill amends the present law to require that, if instruction is included on the cultural heritage of the children with limited English language skills, instruction must be also included on the cultural heritage of other children. In addition, the bill requires that research be conducted on the degree to which the inclusion of cultural heritage instruction in a bilingual education program serves to assist children in learning English.

A special problem exists in Puerto Rico concerning the content of bilingual programs. Immigration to the island from the mainland has exceeded emigration from the island to the mainland by about 12,000 people in the last five years. This produces a situation where the returning students may not be proficient in Spanish, the medium of instruction in Puerto Rico. Therefore, the Committee bill permits bilingual funds in Puerto Rico to be used to teach Spanish to children of limited Spanish proficiency.

(4) Demonstration versus service

On the surface, the Bilingual Education Act has always been a national competition program to demonstrate the most effective approaches in bilingual education. However, criticism has grown in recent years that very little has been actually demonstrated, that districts are funded for year after year, and that the program, in the words of the GAO, "has taken on the characteristics of an educational service program."

Although the impetus for funding bilingual education has come almost exclusively from the Federal Government, sixteen States now fund bilingual education services; however, only 4 States allocate more State funds than local school districts receive from the Federal government. Although districts with Title VII programs often supplement their Federal funds with local funds, there is little evidence of districts which do not receive Federal funds supporting bilingual programs on their own.

Most likely this is due to the costs of such programs. Considering funds from all sources, the AIR found that the average per pupil costs of Title VII programs is $1,398, compared with $1,022 for non-Title VII programs studied. Some types of projects are considerably more expensive, such as those involving Native American and Asian and Pacific languages.

However, once in place, costs may decrease considerably. According to Dr. Albar Pena, former director of the Office of Bilingual Education, "it does not cost any more than the regular program given the resources and materials being there." A study of costs by the Intercultural Development Research Association, stated that "many activities in bilingual education do not require additional funding," such as in-service training programs.

Due to the history of limited appropriations for blingual educaton and the great numbers of children to be served, the Committee feels that funds should be used to get effective programs started. Once underway, local districts should be encouraged to pick up the costs if that is at all possible given the financial staus of the district and the statistics regarding the number of children in need in the district.

Consequently, the Committee bill proposes a general rule that assistance under the Act be limited to no more than 5 years for any particular school or group of schools. However, a waiver of this rule is mandated whenever the school district shows a clear fiscal inability to carry on the program; shows adequate progress in the program; and either has a continuing presence of a substantial number of students with limited English-speaking skills in such school or schools, has experienced a recent substantial increase in the number of such students, or is under an obligation to provide bilingual education pursuant to a court order or a Title VI plan.

The Committee bill also contains two new requirements that an applicant must demonstrate that receipt of this aid will lead to a development of its capability to continue the program after the termination of Federal funding and that Federal funds will be used to supplement and not supplant State and local funds.

(5) Teacher training

Despite provisions in the existing law to improve teacher training, a shortage of bilingual education teachers persists. Nationally, there is an estimated need for 129,000 bilingual education teachers, only a small portion of which has been filled. Three-fourths of States surveyed by OE report considerable teacher shortages.

The quality of bilingual teachers has also been a problem. A Navajo Native American project reported that three-fourths of its staff did not have degrees. While the AIR report shows that 80 percent of the teachers studied had a regular or bilingual teaching credential, the standards for receiving bilingual certification vary widely from State to State. One State, for example, requires only a few hours of instruction dealing with culture and linguistics. Furthermore, many of the small language groups cannot depend on institutions of higher education to aid in training, since quite often university level programs do not exist for these less widely spoken languages—good examples are the lack of programs for many of the Native American languages.

Regarding teacher training the Committee bill requires the Commissioner to conduct a study of the impact of the provision in present law authorizing teacher training fellowships. Some statistics indicate that recipients of such fellowships have not continued in the field for which they have been trained. In this regard the Committee also adopted an amendment to the law to require each recipient of such a fellowship to serve in the area of teacher training for bilingual education for the same period of time that that person received funds or to repay such funds.

Regarding inservice training, the mandatory 15 percent set-aside for that purpose is very crucial for some local programs. For others, the need may have been fulfilled and therefore the funds may be better used for other purposes. The Committee bill, therefore, removes the requirement in present law that each local project must expend at least 15 percent of its funds on inservice teacher training. Rather, the decision on the exact degree of such funding would be left with the local school district, with the expectation that inservice training is an important component of these programs. However, it must be noted that this set-aside funds inservice training programs that are nondegree in nature and therefore may not completely solve the need for highly qualified teachers.

(6) Materials

Despite the progress of the materials development centers, a need still exists for high quality materials, especially in some of the Native American, Asian and Pacific, and Indo-European languages. Some Native American projects experience particular problems with languages that do not have a written orthography; local teachers and directors must spend considerable time developing materials in these instances, a task for which few have adequate training.

Existing materials are often unsatisfactory. The GAO report found that 60 percent of project directors and teachers surveyed felt their materials were inadequate. Much of the material sent to the dissemination centers is found to be unsuitable. One dissemination center director estimated that only 10 to 15 percent of materials received is suitable for dissemination.

For this reason, the Committee bill contains an amendment requiring materials developed under the Act to be equal in quality to those developed for regular English instruction. Furthermore, the availability of materials already in existence must be considered, and special consideration must be given to those language groups for whom private organizations are not likely to develop materials.

(7) Parental involvement

Even though the legislation provides for parent advisory councils, Dr. John Molina, former director of the Office of Bilingual Education, testified that "we don't have very many parents active in our projects."

Consequently, the Committee bill strengthens the provision in present law to require that these parental councils must be consulted in the writing of the application for assistance and must be continued to be consulted in the operation of the local programs. The bill also contains an amendment requiring school districts to notify parents of the instructional goals of the bilingual program and of the progress of their children in reaching such goals so that parents will be better equipped to understand and evaluate the quality of local programs.

(8) Duplication with other bilingual programs

At present a number of other education laws fund programs for children with limited English-speaking ability. Among these, the Emergency School Aid Act bilingual set-aside has been found to overlap with Title VII. Presently, $8.6 million is available under ESAA for nationally competitive grants to local school districts to help provide equal educational opportunity for children with language difficulties. These funds are used for bilingual curriculum development, teacher training, and inter-ethnic understanding programs. Thirty-two projects were funded in 8 States in fiscal year 1976.

The Committee was disturbed to find little coordination between this program and Title VII. Conceivably, a district could receive funds from both sources without the two different parts of OE which administer these programs being aware of that fact.

Consequently, the Committee bill proposes to transfer the bilingual education program authorized under the Emergency School Aid Act from that Act to Title VII. The same type of activities and school districts will be eligible for funds, but this transfer will achieve a greater coordination between the programs. This transfer will also make available to school districts with *Lau* violations a separate source of funding to deal with those problems. The Committee bill also stipulates that from the funds appropriated for this program for fiscal year 1979, the Commissioner shall allot to each local educational agency an amount which bears the same ratio to these funds as the amount that agency received under section 708(c) of the Emergency School Aid Act for fiscal year 1978 bears to the total funds under that section.

(9) Paperwork

As in several other programs amended by H.R. 15, the Bilingual Education Act is amended to authorize local applications for assistance for up to 5 years. Presently, each application must be submitted annually. The Committee hopes that this provision will eliminate unnecessary paperwork while other provisions of the law still retain the proper degree of accountability for funding. The Commissioner, of course, is free to award grants for any period of time up to five years.

(10) Fund distribution

Section 721(c) of the current law requires the Commissioner to give priority to areas having the greatest need for programs when he is determining the distribution of funds under the Act. The Committee does not propose any amendments to that section, but it does wish to state its intent that "areas of greatest need" should be defined as including those which, within the immediately five preceding years, have had a significantly above-average influx of individuals of limited English language skills.

TITLE VIII—EDUCATIONAL PROFICIENCY

Minimum competency testing—assessing the extent to which students have mastered the basic academic skills needed in our society—has become a prominent issue in education today. Declines in standardized test scores, findings of illiteracy among high school graduates, and recent suits against school systems for "educational malpractice" have all led some students, parents, and the general public to question the value of a high school diploma.

The National Assessment of Educational Progress, for instance, found that 13 percent of 17-year olds are functionally illiterate and that writing skills of the same age group declined in quality between 1970 and 1974. Average scores on the SAT's and other standardized tests have been steadily declining for over a decade.

Testimony before the Committee revealed that colleges and prospective employers are becoming concerned about the poor skills of some recent high school graduates. One university reported that 25 percent of its incoming freshmen must take remedial courses in basic subjects in order to prepare them for college-level work. The president of another university who also teaches a course testified that his students are woefully behind their predecessors of ten years ago in their ability to spell, use proper grammar, and express themselves clearly in writing. Similarly, the Navy is having difficulty finding recruits who read well enough to do their jobs and is requiring many recruits to enroll in remedial courses to raise their reading ability to the sixth grade level.

In response to such alarming trends as these, and out of a desire to make a high school diploma mean more than merely being a record of attendance, a number of States and local districts have turned to minimum competency, or educational proficiency testing. Under such a system, students are tested at various points in their educational careers to determine whether they have mastered some basic competencies appropriate to their grade level. At the heart of most of these programs is remediation for those who do not pass the required minimum level of competency.

At last count five States had operational competency-based testing and 29 more were involved in some form of performance-based educational activities in the basic skills. In some cases, adoption of such standards has uncovered an alarming rate of deficiencies in the basic skills. For example, Florida instituted a competency-based testing program this school year and found that while only 11 percent of the 11th graders tested scored below passing in reading and writing skills, 36 percent failed the mathematics portion.

The Committee feels all of these recent developments should be of concern to the Federal government. The Federal government spends billions of dollars every year for programs to provide special services to various types of children, to improve access to educational opportunity, and to help districts explore new initiatives in education. If the basic educational program is not providing some of the nation's school children with the skills necessary to survive in society, then this should be made known and the system adjusted accordingly.

However, the Committee also feels that the proper role of the Federal government in this area is a very limited one. States and local school districts have the basic responsibility to provide education, and the Federal role is merely one of focusing attention on certain problems and neglected populations.

In this vein, the Committee has proposed a new program of aid to the States to assist them in developing minimum competency standards. But the intention is clear: the Federal Government is not to specify certain minimum standards which the States must use, nor is the Federal government to require that certain tests must be used, nor is the receipt of Federal aid (except for this assistance) to be conditioned on adopting minimum standards of competency. The Federal role is merely one of providing financial assistance to the States to encourage their own efforts in this area.

The Committee bill also authorizes the Secretary of HEW to conduct research and evaluation on the uses of tests to measure basic skills. The Committee does not envision the Federal government imposing the results of this research and evaluation under this authority on the States as a condition to receipt of Federal funds.

TITLE IX—EMERGENCY SCHOOL AID ACT

OVERVIEW

Enacted in 1972, the Emergency School Aid Act is the major Federal program to help school districts with desegregation problems. The Act authorizes funds for three basic purposes:

—to meet the special needs incident to eliminating minority group segregation and discrimination.

—to encourage voluntary elimination, reduction or prevention of minority group isolation, and

—to help schoolchildren overcome the educational disadvantages of minority group isolation.

For fiscal years 1973–77, nearly $1.2 billion was appropriated. The fiscal year 1978 appropriation is $275.5 million.

The Act contains seven sub-programs. Three of them—basic grants (64 percent of the annual appropriation), pilot programs (15 percent), and grants to non-profit organizations (8 percent)—are distributed through a State apportionment formula based on each State's minority population. Several nationwide programs are also authorized, including special projects (5 percent), bilingual programs (4 percent), educational TV (3 percent), and evaluation (1 percent). The funds may be used for a variety of activities such as special instructional services. community activities, human relation efforts and staff development.

In 1976, new provisions were added to ESAA authorizing magnet schools, neutral site schools, pairing of schools, and remedial activities for Title I students transferred due to desegregation ("follow the child"). Twenty million dollars was appropriated for these latter four activities in fiscal year 1978.

To be eligible for an ESAA basic grant a district must be implementing a court-ordered, HEW Title VI or voluntary plan of desegregation; a plan to reduce minority group isolation: or for districts which lack a plan but have over 50 percent minority group enrollment, be maintaining at least one integrated school. Before receiving funds, a district must undergo a review by HEW's Office for Civil Rights to determine that it has not committed any civil rights violation since 1972. Districts found ineligible on these grounds may apply to the Secretary for a waiver if they can show the violating condition has ceased to exist.

This year approximately seven million children are receiving ESAA-funded services in about 800 school districts. According to a recent three-year evaluation of the Act funded by the Office of Education, these funds are being allocated to those districts with the lowest pretest scores and socio-economic status, and the schools receiving funds in turn are focusing them on the most needy students.

In addition, the availability of ESAA funds and the OCR review as a precondition for receiving them have served as incentives for many districts to comply with civil rights requirements, according to testimony presented to the Committee. In fiscal year 1977, OCR received 800 applications for review. One hundred forty-three were found to be ineligible: 25 of these findings of ineligibility were modified after show cause hearings and 84 were granted waivers of ineligibility. According to David Tatel, Director of OCR, ESAA-related compliance activities resulted in the following desegregation accomplishments during fiscal year 1974 and 1975:

—224,000 children were reassigned from racially isolated classes,

—25,000 students were reassigned from racially identifiable classes, and

—116 affirmative action plans were adopted which led to the hiring of 300 teachers and three principals.

Although the evidence is at best mixed on the achievement gains of students in these programs, witness after witness remarked to the Committee about how ESAA-funded activities eased tensions associated with school desegregation. For example, an evaluation of the ESAA magnet schools by ABT Associates concluded that in every site visited, people felt these schools had a positive effect on community attitudes. One Georgia superintendent testified that over 38,000 cases were handled by his district's ESAA-funded community aides in one school year.

PROBLEMS

Although the ESAA program has shown success in various ways, several legislative and administrative problems are preventing it from meeting its basic purposes as effectively and as comprehensively as it might. The Committee bill seeks to amend the Act to eliminate these problems.

(1) Lack of flexibility

The Committee hearings showed clearly that the present Act is structured too inflexibly for the Administration to be able to respond effectively to the present needs of school districts undergoing desegregation. The inflexibility in the Act is rooted in the times in which it was enacted and especially in a distrust of the administrators. The Committee believes that now is the time to modify the Act in order to dispel that distrust and to give the administrators more discretion.

The major limiting factor in the Act seems to be the formula for the apportionment of funds among the States. Presently, 87 percent of ESAA funds are distributed under a statutory formula based on each State's proportion of school-age minority population. Initially viewed as a tool for fairly distributing funds, the State apportionment formula has in recent years greatly reduced the flexibility needed to target funds where most can be achieved. For instance, a GAO evaluation of the ESAA program found that in one State, competition for funds was so low that all eligible applicants were funded, even though all those applicants had lower scores than eight unfunded applications in another State. In fiscal year 1977, six States had no eligible applications.

In some States, one or two large districts may use the entire State apportionment. For example, Boston and Omaha absorb all of their respective States' apportionment. This situation, coupled with the fact that large districts can receive more points on their applications for sheer numbers of minority students, effectively work against small and medium-sized districts receiving grants even though their needs may be as compelling.

Another problem with this formula stems from the fact that sheer numbers of minority students do not necessarily indicate a real need for assistance. As noted in the GAO report: "varying proportions of the minority student population may not be or may never have been in a minority-isolated situation, or may be enrolled in large districts that are ineligible for funds."

Although the statute attempts to remedy these problems by permitting unused State apportionment funds to be reallocated, the amount available for reallocation has decreased since the program's early years. Initially, a substantial percentage of the funds were reapportioned; but by fiscal year 1976, only 5.7 percent of the total appropriation was reallocated. In recent years funds under the special projects section have been used to fund districts in States whose apportionments are depleted. However, the special projects set-aside represents only a small portion of the total funds.

Consequently, the Committee proposes to reduce the amount of money which must be apportioned among the States under the Act from $185 million as presently required to $155 million. The Committee bill also increases the discretion of the Assistant Secretary in reapportioning funds away from States which do not have worthy applications for assistance. The Assistant Secretary will now be able to more freely redistribute such funds among other States or to retain them for special projects.

The Committee bill also rewrites the criteria for assistance to be used in approving local applications in order to emphasize more heavily the need for assistance, the degree of integration, and the recentness of the plan. Presently, the program places the greatest weight on the numbers of minority students in the school district and does not consider at all the recentness of the plan of desegregation.

The Committee bill also reduces the number of authorizations of appropriations under the Act and removes three of the mandatory set-asides of funds with the net result that the Administration will have greater discretion in deciding how to use funds under the Act. Again, the Committee adopted these amendments because it is felt that the administrators should have greater authority to decide what types of activities ought to be funded and which school districts ought to receive funds.

(2) Eligible school districts

Another area of inflexibility which the Committee believes ought to be changed has to do with which school districts are determined to be eligible for funds under the Act and which schools within those districts may fund activities. The first problem concerns districts which have court orders to upgrade the overall quality of all their schools as well as to desegregate. The policy of the Office of Education is that presently only those schools affected by a desegregation plan are eligible for ESAA basic grant funds. However, this policy does not appear to be consistently enforced. According to the recent GAO report, one district received a basic grant for a Title VI plan which affected two schools, but funded services in all seven of its schools The Detroit school district, on the other hand, was denied funding for all its schools even though it is under a court order to both desegregate some schools and to improve the education program in all schools. The Office of Education, in fact, withheld over $15 million of Detroit's funds for fiscal year 1977 for this reason.

Consequently, the Committee bill adds to the list of eligible school districts those which have court orders or HEW plans to desegregate that also require an improvement in the quality of education offered in minority isolated schools unaffected by integration. The purpose of this amendment is to make clear that schools in such school districts will be able to qualify for funding even though no integration is taking place in those schools.

Another problem with eligibility has to do with the fact that the ESAA legislation restricts funds to districts which have already adopted a plan of desegregation. The purpose of this restrictiveness and the OCR reviews is to make sure that funds go only to districts which have made a good faith effort to desegregate. However, in some cases this stringency may be preventing districts with a need from making further progress toward desegregation.

In particular, several large districts, including Los Angeles, have been denied funds or waivers of ineligibility due to a failure to integrate their faculty more fully. As a Los Angeles representative testified, this situation is particularly perplexing because the existence of racially-identifiable faculty does not necessarily indicate illegal discrimination practices. In fact, with respect to faculty, Title I of ESAA seems to work at cross-purposes with ESAA requirements, since, in the early years of the program, minority teachers were encouraged to teach in minority schools to act as role models.

In an attempt to deal with this problem, the Committee bill adopts an amendment making clear that school districts which are undertaking efforts to integrate their faculty but which have not yet fully achieved that goal may nonetheless obtain a waiver of ineligibility.

Presently, the Department of Health, Education, and Welfare is interpreting the law as requiring school districts to complete faculty integration before they can apply for funds. The purpose of this amendment is to assist those school districts while they are trying to achieve that goal.

The last amendment affecting eligibility proposes to remove from the list of eligible districts those which do not have a plan of desegregation but which are maintaining one or more "integrated" schools. This class of eligibility is proposed to be eliminated because evidence was presented showing that such programs are doing little to further desegregation.

The GAO reviewed data from one school district which had a minority enrollment of over 99 percent; a school in this district would have to have a non-minority enrollment of only six students to meet present OE criteria enforcing this "integrated school" provision. ESAA regulations also require that a substantial number of students in an integrated school be from an educationally-advantaged background. But since this determination is based on within-district comparisons, the standards of educational advantagement can be quite low for predominantly poor or low-achieving districts. One district where 46 percent of the families were on public assistance was able to qualify 30 of its 36 schools under this provision.

For all of these reasons, the Committee proposes to eliminate from the Act this particular class of eligible school district. The entire purpose of the Act is to encourage desegregation and integration, and this provision obviously does not lend itself much to achieving this purpose.

Lastly, regarding eligibility for funding, the Committee bill includes a new class of eligible applicants, namely States which are expending their own funds to encourage voluntary integration of their school districts. The bill proposes that such States may receive one Federal dollar for every two State dollars they are expending for this purpose with a limit of $500,000 or 10 percent of the amount apportioned to the State under the Act whichever is greater. The Committee has added this provision because it believes that the States, as the primary repositories of constitutional authority for education, must be encouraged to play a more active role in furthering school integration.

(3) Activities

The Committee's hearings showed that a very large percentage of funds under the Act are being used for compensatory education purposes. In fact, a recent OE evaluation found that two-thirds of ESAA funds are spent on instruction in basic skills, with the majority targeted on reading instruction.

At one time, OE seems to have pressured districts into including this component. Present program officials say that this is no longer true; however, witnesses reported that as recently as 1975 they were told verbally that if they wanted funds, they should design a program heavily emphasizing basic skills. While a case for such services can certainly be made, inasmuch as one of the most damaging results of minority group isolation is lagging achievement levels, an equally strong case can be made for funding other types of activities more directly tied into assisting in the process of desegregation.

The heavy emphasis on compensatory education seems particularly misdirected when one considers the extent to which funds for compensatory education are available from other sources such as Title I. Although OE program directors say that they require school districts to provide information on how ESAA will be coordinated with Title I and that they meet periodically with OE Title I staff, other local witnesses testified that the same students may get funding for compensatory education from both programs. One witness said that in his district "virtually all ESAA schools are Title I schools". Other local superintendents say they use Title I funds to deal with the lowest achieving students and ESAA to deal with the next to the lowest group.

The Committee does not believe that funding of compensatory education ought to be the primary use of funds under this Act which was designed to foster desegregation, and therefore an amendment has been adopted revising the list of authorized activities under the Act to place the greatest emphasis upon those directly related to desegregation activities, such as inservice training of teachers and guidance and counseling.

By adopting these amendments the Committee does not mean to indicate that upgrading basic skills can never be a viable component of a desegregation effort. In fact, the restrictive nature of Title I often makes it difficult to apply it directly to the problems of desegregating districts. According to testimony on Title I, a persistent problem arises in districts where students who were receiving Title I services are transferred to non-Title I schools due to desegregation plans. There children can no longer be served and the gains made under Title I are sometimes eroded. The Committee bill contains amendments described below to deal with this particular problem as part of a comprehensive ESAA-funded plan.

(4) "Follow the child"

The present Act provides that the Assistant Secretary may use no more than 5 percent of the funds available for special projects for grants to school districts to provide services "following the child" in desegregation situations. This means that funds can be provided in an integrated school for children who were formerly in Title I schools but who lost their elegibility for Title I due to transfers to achieve desegregation.

A great deal of testimony was presented at the Committee's hearings showing the need for some type of funding in this situation. There was also a great deal of criticism about the present provision in the Act including the fact that the regulations have not as yet been finalized to implement it and no grants have been made as yet under that provision. But the major criticism was that the provision was too restrictive in terms of the amount of funds involved and of the type of districts which could qualify.

Consequenly, the Committee bill proposes to expand funding and eligibility for "follow the child" services by including two new provisions. The first pertains to any school district which qualifies under the Act for a regular grant and which receives that grant. That school district would be required to consider the needs of children who lost Title I services due to desegregation.

The second provision creates a separate authorization of appropriations of $7.25 million a year for the specific purpose of making grants for "follow the child" services to school districts which are eligible for funds under the Act but which for one reason or another do not receive such funds. This provision is meant to cover the situations for all other school districts which have follow the child needs.

It is the hope of the Committee that these two provisions will expand funding and services sufficiently in order to meet the problem. The Committee did not amend Title I of the Elementary and Secondary Education Act to meet this problem, as was urged by many, because of a concern that such a provision in Title I would create too many local administrative problems and could lead to a dilution of the program's focus on educationally deprived in poverty areas.

(5) Administrative problems

The Committee bill also contains a number of ameendments which seek to make it easier for local school districts to apply for funds under ESAA and to reduce the duplication in funding which presently exists under various acts. As regards duplication of funding, the Committee proposes to eliminate the separate programs under the Act providing funds for compensatory education and for bilingual education.

These programs are eliminated as separate categories for two reasons. First, funding is already being provided for compensatory education under Title I and for bilingual education under the Committee's proposed revision of Title VII of the Elementary and Secondary Education Act. And, second, no coordination at the Federal level is presently being provided between these two programs under ESAA and the similar programs under Title I and Title VII. This has resulted in a situation where different divisions of the Office of Education are making grants to local school districts without any knowledge about how much these districts are receiving under other programs and without any effort being made to mesh the services being provided. It has also meant that a school district is required to operate two distinct bilingual education or compensatory education programs under different rules and regulations and with different funding cycles even though basically the same children are being served.

Another administrative problem brought out at the Committee's hearings has to do with annual applications. Local project directors repeatedly stated that the uncertainty of grant awards from year to year makes it difficult to set ambitious program goals, attract and retain qualified staff, purchase supplies at discount sales, recruit and select students, and evaluate program accomplishments. According to one director, the application process alone consumes about two months per year, and since evaluations are due 90 days after the end of the grant period they cannot be used to evaluate any future grant awards.

In addition, if funding is terminated and the district scrapes together other funds to continue any of the activities, these activities cannot be picked up with ESAA funds if the grant is reinstated at any time in the future because of anti-supplanting requirements.

Accordingly, the Committee bill contains an amendment which permits applications to be filed for grants of one to five years duration. Problems of desegregation are generally of a long-term nature and the annual competition for funding has led to a frustration of serious long-term efforts to deal with them. The Committee hopes that this amendment will help to resolve these problems.

Another complicating factor in this situation is the delay that has been experienced by many districts in receiving grants awards. Many districts report that funds are consistently received too late to implement several planned activities, such as pre-service training programs, summer testing to recruit students, and dissemination efforts to dispel rumors in the community.

Districts seem particularly resentful that while they must adhere to strict deadlines for submission of their applications, OE and OCR are not required to keep any timetable in notifying them of their application status. In some instances, notification of awards has not been made until late summer or after the school year has begun.

An evaluation by Applied Urbanetics found that OCR is the source of many such delays; it seems that OCR's determination of plan eligibility may take up to six months. Consequently, districts cannot use their entire grant by the end of the program year. One project which had no other implementation problems turned $69,000 of its grant back to the Treasury for this reason.

Accordingly, the Committee bill proposes to set into the law very specific times for the Department to respond to applications for assistance. The bill also proposes to make the processing of an application a two-step procedure with a simple notice of intention to apply being filed first so that OCR can conduct a review of eligibility and then the program application being filed for the determination of the worth of the proposed program.

The Committee amendment also removes language which would have permitted the Assistant Secretary to request from local school districts whatever information he thought necessary. The Committee feels that this type of language is too broad and could lead to unreasonable data requests.

Another Committee amendment would also seek to simplify the data collection required under the Act by conforming the list of minorities which are considered under the Act to those groups which are used throughout the Federal government for data collection puroposes.

The bill also permits recipients of funds to carry their funds over into the succeeding fiscal year, eliminates the separate report which must be filed biannually, and repeals the National Advisory Council.

(6) Educational Television

The Committee bill continues the permissible funding by the Assistant Secretary of educational television under the Act although the mandatory percentage set-aside (3 percent) contained in the present law for such activities is removed. The Committee adopted this amendment because it is concerned that the Office of Education has not been making the most prudent and wisest use of these funds; and it hopes that since such funding will continue as a permissible activity under the Act although its guaranteed funding is removed, the Administration will review the types of grants and contracts made to date with these funds and will try to assure a more effective use in the future.

TITLE X—IMPACT AID

Overview

The impact aid school maintenance and operations program. Public Law 81–874, provides financial assistance to school districts in areas affected by Federal activities. Along with the companion school construction program under Public Law 81–815, this legislation is based on the assumption that Federal activities place a financial burden on school districts by reducing local tax revenues and by causing increases in the number of children to be educated. Impact aid was the first Federal legislation authorizing major support for elementary and secondary education; but because it is based on the notion of compensation for a Federal burden and because it is used for general school purposes, it is unique among Federal education programs.

Over the past 27 years, several amendments to the legislation have been enacted which have expanded its scope. Due to the impact of these amendments, increases in the number of school children, expansion of Federal military and domestic activities, and growth in the overall costs of education, total P.L. 874 appropriations have grown from $29 million in fiscal year 1951 to $770 million in fiscal year 1978. Between 1951 and 1975, the number of eligible districts increased from 1,172 to over 4,300 and the average local contribution rate (reimbursable cost per pupil) grew from $106 to about $615. Presently, about one in every four school districts in the country receives impact aid for a total of 2.5 million federally connected children and 9,000 Federal properties. Individual district payments range from $2,000 to over $20 million.

Districts are currently eligible to receive impact aid if they have three percent of their enrollment federally-connected children or a minimum of 400 such students. These children may be children who live on *and* have a parent employed on Federal property (section 3(a) children) or children who live on *or* have a parent employed on Federal property or in the uniformed services (section 3(b) children). Between 1951 and 1977, the so-called category A children have increased from 50,000 to over 360,000; the so-called B children have increased from 386,000 to 2.1 million.

A district's entitlement is calculated by multiplying counts of these federally connected children by the local contribution rate. A district can choose to base its local contribution rate on average per pupil expenditures from local sources in "comparable" districts, or on one-half the State average per pupil expenditure, or on one-half the national average. Until 1967, full payments were made for A children and half payments for B children, a relatively simple procedure to administer at all levels.

The Education Amendments of 1974 substantially revised the 874 legislation and greatly increased its complexity. These amendments created several subcategories of A and B children, with varying entitlement rates for each subcategory. An intricate payment procedure, the tier system, was erected to set forth funding priorities in years when appropriations are insufficient to pay fully all entitlements (as they have been since 1967). Four different hold harmless provisions were included to ease the effects of certain amendments. As a result of this legislation, up to 32 different computations are now required to determine a district's entitlement, with an additional 32 to calculate its payment.

Although these amendments have made a relatively simple program into a relatively complicated one, witnesses before the Committee generally agreed that the new system better reflects the actual burden imposed by the Federal government. Almost no one expressed a desire to return completely to the previous system. However, some problems have surfaced which indicate the need for certain modifications within the existing structure.

PROBLEMS

(1) Treatment of category B students

One of the more complex provisions of the 1974 Amendments made distinctions between different types of civilian B children: those with a parent employed *in the same county* as the school district; those with a parent employed *out of the county* but in the same State as the school district; and those with a parent employed *out of the State* in which the school district is located. Beginning in fiscal year 1976, payments for out-of-State children were eliminated, and out-of-county B children were set at a lower entitlement rate than in-county B's. In addition, out-of-county B's received a lower percentage of their entitlement in the second tier than in-county B's.

The application of these provisions has caused financial problems for some districts and administrative complications at the Federal levels. Nationally, this means that approximately 200,000 out-of-county B children had their entitlements and payments reduced. Approximately 100,000 out-of-State B's no longer garner any payments for the districts they attend. According to OE, these changes affected several thousand districts. In fiscal year 1976, a total of $17 million was paid to some of these districts, under a hold harmless provision guaranteeing districts 90 percent of their previous year's entitlement if more than 10 percent of their total B children consisted of out-of-county and out-of-State B's. According to the OE program director, this figure would have been greater if another hold harmless for low rent housing children had not been funded.

Despite the hold harmless, some districts have had to cut programs to compensate for these revisions. After failing several times on a tax referendum, one Illinois district with an influx of B's from a military base in a neighboring county had to eliminate all athletic programs, fine arts programs, and field trips, as well as combine classes. The 5 percent difference between treatment of out-of-county and in-county B's amount to a loss of about $50 per pupil, and, for a district with 200 such pupils, the salary of one teacher.

An OE program official testified that the different treatment of civilian B's necessitates several complex calculations before a payment can be made. The process is further complicated because many of the 9,000 eligible Federal properties are claimed by more than one school district, and thus are "in-county" for some and "out-of-county" and "out-of-State" for others. Some school districts claim several hundred Federal properties. The addition of the hold harmless, according to the OE official, results in still more computations and further delay in what is already a process tending to late payments.

The Committee feels that erasing the somewhat artificial distinctions between civilian B's will ease this payment process somewhat, eliminate the need to apply the hold harmless, and improve the financial base in some of the hardest hit districts. The Committee feels that Federal property in States and counties within commuting distance of a particular district attracts federally-connected children and thereby increases enrollments and costs. In many cases, the federally-connected families moved to these types of districts because of the unavailability of in-county housing, a situation for which neighboring districts should not be penalized.

Therefore, the Committee amendment restores the out-of-State B children to eligibility under P.L. 874 and gives all B children (out-of-State, out-of-county, and in-county) the same entitlement and payment rates. According to the Library of Congress, the first part of this amendment will cost $24 million and the second part $8 million for funding through the second tier in fiscal year 1979.

(2) Needs of heavily impacted districts

The most heavily-impacted districts share a number of characteristics which cause them to be severely affected when appropriation levels are insufficient to fund full entitlements or when changes are made in rates and payments. Although these districts constitute less than 3 percent of impact aid eligibles, they generate over one-fourth of the net entitlement. In general, such districts have substantially lower assessed valuations per pupil, substantially higher millage rates, lower expenditures per pupil and higher student/teacher ratios. Most of these districts encompass military bases, which take up high percentages of property and bring large numbers of families into the district.

The amendments of 1974 attempted to recognize these problems by stipulating that districts whose A students constituted 25 percent or more of their total enrollments would be paid 100 percent of their A entitlements through the second tier. While this amendment has helped these districts considerably, they are still troubled by inadequate payments, especially for B children of military parents. These districts now receive the same pro-rated payments for these children as do all other children.

According to several witnesses, military B's create more severe problems than civilian B's in such districts. Because of the Soldiers and Sailors Relief Act, military personnel may maintain their legal residence in another State and may pay income and personal property taxes to their home States. Thus, their B status is illusory. In addition, many of the military B's reside in mobile homes, which in some States are considered personal property exempt from local tax through the Soldiers and Sailors Relief Act. Finally, the State cannot charge sales tax on purchases made by military personnel in business establishments on base.

In recognition of the unusual reliance of heavily impacted districts on impact aid to support their basic educational program, the Committee proposes an amendment which would increase the tier 2 payments to these districts for military B children from 60 percent to

100 percent of their entitlements. The Library of Congress estimates that this amendment will cost $18 million for fiscal year 1979. The Committee has also adopted another amendment to help heavily impacted districts. This amendment would expand the provision in the present law authorizing the Commissioner to make extra payments to these districts in order to help them in balancing their budgets by requiring the Commissioner to make such payments for all children counted for impact aid whenever a district meets the requirements of the section.

(3) Absorption

The 1974 law contained an amendment, effective in fiscal year 1978, which provides for a reduction of entitlements for B children in school districts where the total number of B children is less than 10 percent of average daily attendance or where the dependency on section 3(b) for total expenditure revenue is less than 25 percent. Essentially, this provision would have required districts to "absorb" a certain percentage of federally-impacted children before receiving any payments.

However, there appears to have been some question as to how this provision was to be implemented. Under its reading of the law, the Department of Health, Education, and Welfare understands this provision to mean that each such district must absorb (i.e., not be paid for) the number of B children who constitute 3 percent of the total enrollments of the district. The Library of Congress interprets this provision much more restrictively and understands it to mean that each such district must only absorb 3 percent of the B children in the district. The difference in interpretation makes a very considerable difference in the cost effect of this provision—$42 million for fiscal 1979 under the HEW interpretation and $5 million under the Library's interpretation.

In addition to this confusion over meaning, Committee hearings revealed that absorption of even limited numbers of federally connected children may create financial problems in many districts and have a detrimental effect on the quality of education. Since payments have not equaled full entitlements in over 10 years, districts are already absorbing part of the costs of educating federally connected children, For example, one district reported that in fiscal year 1976 payments for B children represented only 25 percent of their per pupil costs, leaving $3,430,000 to be absorbed by local taxpayers to support education of children of Federal employees.

Raising local taxes to counteract even small reductions in impact aid may not be a viable alternative in some districts. In the last 10 years the number of successful local bond elections has dropped from 74 percent to 46.3 percent. Several impact aid superintendents testified that they are currently levying the maximum millage allowable under State law and therefore have no legal way to replace reductions in impact aid funds. Others have attempted bond elections with no success. In these instances, which are becoming more common, the only recourse is to cut back programs.

Consequently, the Committee proposed to repeal the absorption provision contained in the present law. School districts are already not being paid adequately by the Federal government for these children and there is no need to increase this burden.

(4) Average Daily Attendance

Public Law 81-874 provides that the average daily attendance (ADA) used to ascertain payments may be determined according to State law, except that federally-connected ADA shall be determined by OE regulations. The General Accounting Office has found, however, that methods used to compute attendance figures for State funds vary considerably from State to State. Some States use attendance figures taken one or two days during the year, while others use an average daily attendance figure. As a consequence, GAO found that 35 percent of the school districts reviewed encountered difficulty in reporting a correct total ADA. In some instances, the ADA reported to OE could not be reconciled with that reported to the State. In other cases, errors in computing ADA led to overpayments or underpayments.

Therefore, the Committee bill contains an amendment which would permit the conversion of average daily membership statistics into average daily membership for school districts in States reimbursing based on average daily attendance for State aid programs. The Committee hopes that this amendment will simplify the administration of the program and lead to more accurate data being used. It is anticipated that no increase in cost will result from adoption of this amendment.

(5) Handicapped children

The Amendments of 1974 entitled any handicapped Indian child or child of military parents to 150 percent of their usual A or B entitlement rate, provided that the district is carrying out a program to meet the special educational needs of such handicapped child. In 1976 over $16,000,000 went to about 20,000 handicapped military and Indian children under this program.

Experience with the implementation of the Education of All Handicapped Children's Act, P.L. 94-142, and resulting information about the needs and costs of educating handicapped children have convinced the Committee that some changes in this section of the impact aid legislation are necessary to enable it better conform with the structure and philosophy of P.L. 94-142.

First, according to OE officials, there is some conflict between the definition of "free public education" in P.L. 874 and the requirement to furnish private schooling, if necessary, in P.L. 94-142. Section 6 of P.L. 874 in particular contains prohibitions against furnishing education to children in facilities other than those located on a Federal installation or owned by a local school district. In addition, the Administration has recommended amending the legislation to make it compatible with recent handicapped legislation.

Therefore, the Committee has adopted an amendment allowing school districts to count as impact aid students those handicapped students who are placed in schools outside the school district. Since the costs of such placement would depend on the type of handicapping condition the student has and also on the type of institution, it is not possible at this time to make an accurate cost estimate of the effects of this amendment; but the Committee nonetheless feels its adoption is necessary in order to conform the impact aid provisions for handicapped children with the general Federal statute providing for the education of all handicapped children, P.L. 94–142.

Second, the implementation of P.L. 94–142 has shown that the costs of providing special education to handicapped children in most cases is far in excess of the 150 percent entitlement provided for such children presently in the impact aid program. In light of the Federal government's commitment to improving education for the handicapped and in order to provide districts with the flexibility to make maximum use of their special impact aid funds and their P.L. 94–142 funds, the Committee recommends that impact aid payments be provided to cover the full excess cost of educating military and Indian handicapped children. These excess cost payments would be in addition to the regular impact payments made for such children due to their federally-connected status, and the only deduction which would be made from this excess cost payment would be for the amount provided for their education under the Education of All Handicapped Children's Act, P.L. 94–142. The Library of Congress estimates that this provision will cost $35 million in fiscal year 1979 at the tier two level of funding.

In view of the variety of techniques used to fund ~~education~~ and to account for funds among the States, the Committee anticipates that the Commissioner will implement appropriate procedures for determining the payments to be made for such excess costs. The Committee would strongly urge the Commissioner, in formulating these procedures, to use the same rules for such determinations as are used under other Federal laws so as to avoid unnecessary accounting and paperwork.

(6) Low rent housing children

Payments under the Federally-assisted low rent public housing portions of impact aid operate uniquely and with more restrictions upon them than payments for any other type of impact children. Since 1975, districts receiving payments for low rent housing children have had to use these funds for compensatory education programs for low income children as approved by the State educational agency. Low rent housing payments are also treated differently from payments for other A and B children in the tier system, in that no payments are made for such housing students in the second tier.

In fiscal year 1976 payments totaling over $78 million were made for approximately 662,000 public housing children. These payments provide an obvious assistance to school districts and are a great improvement over the situation which existed prior to 1974 when such payments were authorized under the law but never actually made. However, the Committee has concluded that the continuation of the limitation on appropriations for such children in the second tier of funding has resulted in public housing payments falling far short of paying a fair share of the educational costs of these children. One school administrator testified that while the costs of educating public housing children represented 2.5 percent of the school budget, P.L. 874 covered only 0.2 percent of the budget. The city of New York receives about $19 million in impact aid payments for low rent housing which in turn costs the city $79 million in lost tax revenues. Although the Department of Housing and Urban Development makes some payments as reimbursements for losses associated with tax-exempt low rent housing, these payments are less than $20 per child and go into the local general jurisdiction's budget, not necessarily to be used for education.

Most witnesses agreed that the restrictions placed on public housing funds for a Title I-type program are difficult to administer and are philosophically inconsistent with the general aid nature of impact aid. A few witnesses even stated that although they were eligible for public housing funds, they did not apply because of the administrative burden involved and because of the slowness of the State approval process. One district administrator testified that his State educational agency would not approve the district's application for such a compensatory education program because the costs were too high in light of the uncertainty of 874 public housing funds. Due to these problems, almost $15 million of the funds available for such purposes during fiscal 1976 were not applied for by eligible school districts, according to the Office of Education.

In light of these administrative problems created by the present restrictions on the use of such aid and in light of the fact that the present limits on the amounts which can be paid out for such children result in insufficient payments, the Committee has adopted amendments which remove altogether the requirement for a categorical use of such aid and which remove the limitation on second tier funding for such children. This means that public housing payments will go into a school district's budget for the general support of education in that district, similar to most other impact aid payments, and that payments will be made for public housing children treating such children as regular A and B children. According to the Library of Congress, the cost of this amendment will be $110 million for fiscal year 1979 presuming funding through the second tier.

The Committee, though, would like to state clearly its intention that, in removing the requirements that assistance received through the public housing entitlement be used for a compensatory education Title I-type project, it is not also intended that the funds be available for other than educational purposes. In providing these dollars without restrictions, the Committee clearly intends that they continue to be used to improve educational opportunities in the school district. The temptation for cities with fiscally dependent school districts to supplant local dollars with these newly available impact aid funds must be totally resisted. Otherwise, those cities and school districts will be in clear violation of the law.

(7) Section 6 schools

Section 6 of the P.L. 874 provides that the Commissioner must make arrangements for the education of children residing on Federal property when the local school district cannot provide a suitable free public education for these children. There are 26 of these so called "section 6" schools throughout the nation and in Puerto Rico, with a total enrollment of over 38,000 and a total operating budget of about $46 million. Generally, these schools are located on or near military bases, and funds for their construction come from section 10 of P.L. 815. Although their funds come from HEW, the day-to-day operation of the schools is delegated by HEW to the individual branch of the Armed Services with which the installation is affiliated, or, in a few cases, to the adjacent local school district. Whenever possible, it is HEW's long-range goal to work with the adjacent school districts to get them to eventually take over the schools completely.

Committee hearings revealed that the division of responsibility for the schools between HEW and the Armed Services has resulted in neither agency taking full responsibility for their well-being. Consequently, many of these 148 facilities owned by the Federal government are in a serious state of disrepair. For example, the testimony on the Fort Buchanan school in Puerto Rico revealed hazards that posed an imminent danger to the children's health and safety. And, unfortunately, this is not an isolated case. A recent in-depth study of these facilities by the Department of Health, Education, and Welfare has concluded that $10.6 million is required to merely bring these schools up to safety standards. An additional $60 million would be necessary to replace facilities where upgrading would not be sufficient to meet life-safety standards. This does not even begin to cover other less extreme but equally necessary repairs or rebuilding costs, or remodeling required under section 504 of the Rehabilitation Act to make these buildings accessible to the handicapped.

Construction and renovation costs for section 6 facilities must by law now come only from section 10 of P.L. 815. However, a huge backlog of unfunded applications for this section and a meager annual appropriation by the Congress has precluded most of them from being funded. While approximately $230 million would be necessary to take care of all construction needs for these schools, the section 10 appropriation has remained constant at $1 million for the past several years. As a result some applications have been pending for over 10 years.

As a last resort, some of these schools have occupied temporary facilities borrowed from the local base, and in some instances even these temporary facilities have become rundown. However, neither section 6 nor section 10 permit renovation of these facilities since they are technically neither owned nor approved by HEW.

Therefore, the Committee has adopted an amendment permitting these section 10 funds to be used not only for construction but also for leasing, renovating, remodeling and rehabilitating buildings. The Committee realizes that this expanded authority is at best a short-term solution for the program and that the real solution lies only with greatly increased appropriations. Nonetheless, this amendment is the best remedy that the Committee can offer at this time.

The section 6 schools in Puerto Rico present a number of unique problems, since they are the only section 6 schools outside the mainland United States and are located in an area where English is not the medium of instruction. Although the Antilles Consolidated School System is run by the Navy and housed in barracks on loan from the Army, 50 percent of the enrollment is from non-military families. At the Fort Buchanan school in particular, two-thirds of the children are from civilian families.

Decisions affecting these schools are made by an admiral, who is not an educator but who acts as the entire school board for the Antilles school system. Although he is advised by a school council, the majority of the council consists of military representatives and its duties are merely advisory. Unilateral authority rests with the admiral.

According to parents of children attending Fort Buchanan, this situation has led to several unsound decisions to reduce program offerings and ancillary services, decisions which have adversely affected the quality of education and in which parents have had no input.

Representatives of the Antilles Consolidated Teachers Association also expressed displeasure with the present arrangement. They concurred with the parents' suggestion that a multi-member board of education would better suit the interests of the school system. They also pointed out that P.L. 874 invites abuse by not specifying personnel practices, especially regarding salary. Although the legislation suggests that the education in areas outside the mainland U.S. be comparable with education in the District of Columbia, teachers recommended language which would unequivocally align their salaries with those in the District.

As a consequence of this testimony, the Committee has adopted an amendment making clear that the compensation, tenure, leave, hours of work, and other incidents of employment for personnel in school systems located outside of the 50 States must be on the same basis as that provided in the public schools of the District of Columbia. An amendment was also adopted requiring the establishment of an elective school board in all section 6 schools. The Commissioner is authorized to establish procedures for such elections, and these boards are to have authority to oversee the expenditure of funds and the operation of these schools.

Also in an effort to bring about more accountability for the funding and operation of these schools, the Commissioner of Education is newly required to ensure the most efficient expenditure of these funds in each school and to require an annual accounting of such funds for each such school. The Commissioner must also gather data on the quality and type of instruction being provided in these schools. It is, of course, expected that the Commissioner will share this information annually with each of the elected school boards.

A last amendment adopted by the Committee affecting section 6 schools in the outlying areas modifies the provision regarding parental status to determine a child's eligibility to enter such schools. Presently, the law requires the Commissioner to determine first that the parent is employed by the Federal Government and that this type of education is appropriate and cannot be provided by a local educational agency, after consultation with the State educational agency. The new provision states that the parent must be employed by the Federal Government in a grade, position, or classification subject to transfer to an area where English is the language of instruction and that it will be presumed that no local educational agency is able to provide a suitable education unless the Commissioner determines otherwise.

(8) School Construction Assistance

P.L. 81-815 authorizes financial aid to impacted districts for construction of urgently needed minimum school facilities. Eligible districts include those with substantial increases in school membership due to new or increased Federal activities (sections 5, 8 and 9), those with inadequately housed pupils when Federal property constitutes a substantial portion of the school district or with substantial numbers of children residing on Indian lands (section 14), and those where no State or local educational agency funds may be used for school construction on Federal property (section 10). The Act also authorizes construction assistance to schools whose facilities have been destroyed or damaged as result of a major disaster (section 16).

During the period from 1951 through 1975, Federal funds totaling over $1.4 billion have been used for over 6,400 construction projects. The facilities constructed under sections 5, 8, 9 and 14 of the Act have provided facilities to house approximately two million pupils. Facilities constructed under section 10 house over 136,000 pupils.

Since 1967, appropriations for P.L. 815 have been inadequate to meet the demand for school construction. In such a case, the law provides that funds must be allocated according to a priority index based on relative urgency of need. Presently, there is a large backlog of unfunded applications: $115 million in section 5, $230 million in section 10, and $500 million in section 14, for a total backlog of $845 million.

The situation is further complicated by the fact that when major disasters occur, funds for disaster assistance are taken from other sections of 815, superseding all other priorities. This has occurred often in the past few years, leaving substantially lesser funding available for other sections of the Act.

According to representatives of the Office of Education, in many instances school facilities on the waiting list for P.L. 815 funds simply do not get built because tax powers are at their limit in many of these districts. The Committee heard testimony that in some cases facilities represent a danger to the students' safety and that they are housed in temporary facilities.

The situation is especially severe for the section 6 schools because they have n other source of funding to turn to in order to construct buildings. P.L. 815 is their only source of school construction funds; and when the appropriations are insufficient, the buildings quite simply do not get built.

The Committee has grappled with this issue and has come to the conclusion that the only real answer is to secure increased appropriations for P.L. 815. Several of the present provisions authorizing priorities in funding when appropriations are insufficient could be modified in order to give one class of districts a somewhat higher priority than others, but that is not a real answer since it would be a classic example of "robbing Peter to pay Paul". Therefore, the Committee has basically retained the authorizing legislation as it is now written and urges the Appropriations Committees to consider greater funding for the Act.

The only substantive amendment to P.L. 815 the Committee proposes is one to help in eliminating unnecessary paperwork in counting children. Amendments to P.L. 815 in 1974 changed the determination of A and B category children for P.L. 815, so that for the first time since 1950, the count of children differs from P.L. 874. All children residing on Federal property continue to be classified simply as A children, for purposes of P.L. 815, instead of all of the new sub-classes required since 1974 for P.L. 874. P.L. 815 also permits counting of out-of-State B children within reasonable commuting distance, whereas P.L. 874 discontinued counting of these children after 1975. According to OE program officials, these differences have resulted in some administrative problems. At the local level, school districts must frequently maintain some degree of record duplication to differentiate between children counted for 815 and 874. At the Federal level, counts can no longer be validated by comparison between numbers claimed under each law.

Consequently, the Committee has adopted an amendment which conforms the children to be counted for purposes of P.L. 815 to the classifications presently used for P.L. 874. With this change, the Committee has no intention to shift radically the order of priority for funding under P.L. 815 although some modifications may come about; rather, the purpose is simply to help cut down on unnecessarily duplicative paperwork being required in this program.

(9) Disaster assistance

Public Laws 874 and 815 authorize major and pinpoint disaster aid. A major disaster is one sufficiently severe and broad to be declared as such by the President. Pinpoint disasters are situations where isolated school districts are eligible for aid if their facilities were damaged or destroyed by natural causes but not mischievously. Section 7 of P.L. 874 authorizes assistance for minor repairs, for replacing supplies and materials, for leasing of temporary facilities, and for added operating costs. Section 16 of P.L. 815 provides funds to replace or restore damaged facilities. Grants are the usual form of assistance for major disasters, whereas with pinpoint disasters only loans may be provided.

Between 1965 and 1976, $122 million was appropriated for section 7 payments and $35 million for section 16. During fiscal year 1976, a total of $12 million was authorized for payments under section 7 and $2.6 million was reserved for section 16 applications.

From its date of enactment in 1968 through 1976, the Office of Education did not implement the pinpoint disaster provisions. On July 1st, 1975, the Comptroller General ruled that the Office of Education must implement these provisions. The Office of Education consequently began implementation and ultimately made eligibility retroactive to Jan- appropriate to the Office of Education may be used for quick assistance were received in 1977 for disasters dating back only as far as July 1, 1975.

Sections 7 and 16 authorize funds to be appropriated in amounts necessary to carry out the provisions of these sections. While these appropriations are pending, the Commissioner is authorized to use funds from any other sections of P.L. 815 for immediately providing major disaster assistance. Under P.L. 874, any discretionary funds appropriated to the Office of Education may be used for quick assistance under section 7.

Several witnesses before the Committee testified that although their districts had suffered pinpoint disasters, they have not been able to avail themselves of Federal assistance because their districts simply could not afford to pay back the loan under the conditions set by the Federal government. In addition 29 States prohibit local districts from borrowing from the Federal government. Consequently, the Committee proposes to make the P.L. 815 payments for pinpoint disaster assistance available in the form of grants similar to such aid provided under P.L. 874.

The Committee has also received many complaints from school districts about the tardiness of the Office of Education in processing applications for disaster assistance. Therefore, the Committee has required that the Commissioner complete the process of approval or disapproval within 60 days of receipt of an application. Otherwise, the Secretary of Health, Education, and Welfare is to assume responsibility for processing the application and is to complete such action within 90 days of receipt of the application.

(10) Late payments

While the impact aid laws are generally regarded to be easy to administer, a persistent complaint from witnesses over the years has been that payments are received too late. Although the Office of Education attempts to alleviate this problem by providing an initial payment of 70 to 90 percent of the estimated entitlement before the close of the school year, this means that districts must operate with carryover funds, borrow funds from other sources, or delay payments of outstanding obligations.

Final payments are generally not made until the fall and winter of the following year. One district reported that some $184,000 in fiscal year 1974 monies were not received until 1975 and 1976. Another district testified that it is not uncommon to receive final payments as late as 12 to 15 months after the close of the fiscal year.

In addition, the Office of Education has been late in recent years in making even initial payments. This situation creates financial problems for many districts, especially those in States which do not permit districts to operate under deficit financing.

Therefore, the Committee has adopted an amendment which requires the Commissioner to make a payment upon application to a school district within 30 days of the beginning of a fiscal year in an amount which equals at least 75 percent of the previous year's payment. The Committee also encourages, of course, prompt payments of the remainder of the grant. If, however, it is determined later that the school district is not entitled to these amounts, it must of course pay them back.

(11) Equalization provisions

Since 1974 P.L. 874 has contained a provision permitting States to consider the amount of impact aid a school district receives when the State is determining the distribution of State aid. The condition for this consideration by the State is that the State must have an acceptable program of aid to equalize expenditures among school districts as determined under regulations of the Commissioner.

During the Committee's consideration of amendments to impact aid, the Committee studied an amendment which would have defined a State program of equalization to be one in which no school district's per pupil expenditure differed by more than $100 from any other district's expenditures. The Committee rejected this amendment; but the Committee wishes to state that by this action it does not mean to endorse the existing standards of equalization promulgated by the Commissioner, nor does the Committee endorse a further loosening of those standards. The Committee rejects the proposed standard only as too strict and thus impractical, but does not reject the concept of a standard of equalization that applies to all students and that recognizes the educational needs of all students. By this action the Committee desires to reaffirm the original intention of the exception for States with equalized programs provided by section 5(d)(2) of Pub. L. 874, and to require the Commissioner to promulgate regulations that are in accord with that intention.

In this same area the Committee did adopt another amendment which requires a State to notify its school districts that it wishes to avail itself of this provision. Then, the Commissioner is required to give local school districts within the State an opportunity for a hearing.

(12) Miscellaneous

The Committee also adopted amendments giving local educational agencies adversely affected by any action of the Commissioner the opportunity for a hearing in accordance with the procedures specified in the Administrative Procedures Act and eliminating payments for students enrolled above the 12th grade for fiscal year 1980 and beyond.

TITLE XI—INDIAN EDUCATION

OVERVIEW

Title XI is the product of the Advisory Study Group on Indian Education of the Committee on Education and Labor. This special group was established by the Committee at the beginning of the 95th Congress to conduct research into, and propose needed legislation pertaining to the field of Indian education. Over the last 15 months the Advisory Study Group conducted 18 days of hearings in Washington and six field trips, bringing members of the Committee into contact with tribal officials, Indian and non-Indian educators, public education officials, parents, and students. The Advisory Study Group has visited over 104 public, Bureau of Indian Affairs, and tribally controlled schools in all parts of the country, including Alaska. In addition, Committee staff spent over five months in the field during the summer and fall of 1976, conducting intensive on-site visits.

The Advisory Study Group determined that the following problems, documented by hearings and on-site inspections, require immediate remedial legislation: (1) the lack of Indian involvement and participating in both public and Bureau school programs; (2) the need for increased dollars to meet the higher cost of supplying basic education programs for Indian children; (3) the lack of adequate funding to meet the special needs of Indian students, both educational and cultural, preferably through the Indian Education Act of 1972; and (4) the lack of Congressional direction for a coordinated educational system within the Bureau of Indian Affairs.

Although the BIA does have administrative authority to make many of the needed changes identified by the Committee, bureaucratic inertia has thwarted such progress. Additionally, the Committee has found reluctance on the part of some key Bureau employees to solicit and encourage input by Indian tribes, organizations, and parents. These Bureau employees, Indian and non-Indian alike, still support the outdated concept of "doing things for the Indians." Congress must take immediate steps to see that this misguided policy, already repudiated by the Indian Self-Determination and Education Assistance Act of 1975, is changed forthwith.

A few examples of the Bureau's lack of direction include: (1) the absence of standards for either education programs or boarding facilities; (2) noneducators having the day to day control over education programs; (3) the absence of a centralized information system for Bureau education data; (4) the absence of standardization policies and procedures for accountability on the part of Bureau employees; (5) although there is a great need for school construction funding, little information on current construction needs exists within the Bureau; (6) a personnel system which breeds delays and vacancies in the recruitment of education personnel; and (7) the failure to distribute Bureau program funds on a basis of need. These inexcusable conditions exist despite repeated criticisms and recommendations for change made by government and private organizations stretching over a 50-year period: (Meriam Report, 1928; Kennedy Report, 1969; Havighurst Study, 1970; GAO and Committee Reports; American Indian Policy Review Commission, 1977, etc.).

Title XI is composed of three parts and attempts to address these problems.

PART A—ASSISTANCE TO LOCAL EDUCATION AGENCIES (L.E.A.'s) P.L. 81-874 AMENDMENT

As an amendment to P.L. 81-874 (Impact Aid), this section makes two major changes. First, it establishes a new weighting factor for computing the entitlements of local school districts which provide public education to Indian children whose parents reside on Federal Indian trust property. Secondly, it spells out the policies and procedures which each local school district receiving these payments must establish to insure the increased participation of Indian parents and tribes in the education process. This section strengthens the general provisions enacted in 1974 (P.L. 81-874, Title I, Section 5(a)(2)(A)) requiring such input. It also establishes a complaint procedure to guarantee the meaningfulness of the input under this section. The new entitlement and these requirements will apply to all local school districts which receive P.L. 81-874 payments for children residing on federal lands. The local school district will not have the option of non-compliance by forgoing the increased entitlement, though the local school district may choose to forgo all P.L. 874 funds. The Commissioner shall write the regulations accordingly, taking whatever steps are necessary to ensure that there is substantial Indian tribal and organizational participation.

(1) Entitlements for Indian children

Under the newly created P.L. 874 subparagraph 3(a)(2)(D), the entitlement of an Indian "A" child would be an amount equal to the sum of the regulation entitlement for an "A" child times 125 per centum. Precedent for the federal government taking such action can be found in the P.L. 874 provision dealing with handicapped children, another "extra cost" group.

This will generate an additional eighteen and one-half million dollars nationally to public schools educating Indian students and will assist those local school districts in meeting the increased cost of educating Indian students. The Committee expects that the appropriations level relevant to the overall 874 program will be adjusted to meet this increased need. These funds, like all 874 monies, are funds for the support of *basic* education, and nothing in this section should be construed so as to imply that these basic funds should be used to establish special segregated programs for the education of Indian children, except in such cases where the skills of an Indian child in the English language are deficient, thus retarding further educational progress. In this instance, 874 basic education monies may be used for the creation of bilingual classes to assist the child only until such time as he or she can receive class instruction in English. Assistance to local school districts for the creation of programs in Native culture and Native languages comes from the Indian Education Act (Title IV, P.L. 92-318). This new provision shall not affect, in any way, the supplemental programs currently provided to local school districts.

(2) Parental and tribal participation

This section further amends P.L. 81-874 by establishing *in law* the type of parental and tribal participation required and by adding grieveance procedures by which parents and tribes with childern enrolled in the local school district can file a complaint regarding any action by the local school district which the parents and tribe determine denies them participation, as outlined by this section, into the education process.

(3) Policies and procedures

Under provisions of the newly created subparagraph 3(d)(2)(D)(ii), a local school district must, within one year of enactment of this act, or in the case of a newly created local school district, within one year after their formation, establish policies and procedures regarding the participation of Indian parents and tribes into the education process of the local school district.

Newly created subparagraph 3(d)(2)(D)(iii) outlines the policies and procedures required, which must insure that: (1) Indian children claimed under subsection (a) will participate on an equal basis in all school programs with all other children educated by the local school district; (2) parents of Indian children claimed for Indian lands under subsection (a) and tribes having students served by a local school district have been consulted and involved in the planning, development, and operation of programs assisted under this application; and (3) parents of Indian children and tribes having students served have had an opportunity to make recommendations concerning the needs of such children and the methods to be used to meet those needs; and (4) that program plans and evaluations have been adequately disseminated to parents of Indian children described above and tribes whose children are served by the local school district. The dissemination must take place in a timely manner, insuring that all parents and tribes concerned have had adequate time and opportunity to present their views with respect to the application. In a few areas, the Committee realizes that dissemination to all parties may be a difficult task, due to extreme distances, but it is the intent of this section that all parents and tribes be given a voice in the direction of the education for their children in spite of those difficulties.

While the Commissioner will have to establish guidelines and regulations governing this new requirement, the Committee feels that too many regulations will have a "chilling effect" on relations between the school district and Indian parents. The Committee feels that less emphasis should be put on the dictating of programs by the Commissioner, and more emphasis should be put on the complaint procedure.

(4) Complaint procedure

A complaint procedure is established by the newly created subparagraph 3(d)(2)(D)(iv), which would give any tribe or its designee (which has students in attendance at a local school district) the right to file a complaint against the local school district if the tribe feels the local school district has not fulfilled its obligation to insure participation as outlined under subparagraph 3(d)(2)(D)(iii). Parents of children served by a local school district must file grievances through the tribe or its designee.

The complaint process shall take no longer than one hundred days beginning on the day the Commissioner receives the complaint, until the final determination is made by the Commissioner.

Upon receipt of a tribal complaint, the Commissioner shall: (1) appoint an examiner from outside the Department to hold a local public hearing, a record of which shall be kept, and make the findings of fact and recommendations and, (2) make a determination based on the facts established in the public record and the examiner's recommendations. Factors governing the final determination shall be: (1) the adequacy of the procedures and policies guaranteeing Indian input by the established local school district; (2) adherence on the part of the local school district to these policies and procedures; and (3) the meaningfulness of Indian input based on the recommendations made by the Indian community, the resulting program, and the educational performance and improvement of the Indian students in attendance at the local school district involved. All of these factors are to be judged by a reasonable standard, which should take into account the progress which has taken place from the beginning of each application renewal period compared to the previous year. Regulations should be phrased so that the policies and procedures, once established, shall be stable and will not be in a continuous state of change. The Commissioner shall set a time within which the local school district must comply and shall also establish, by regulation, a system to discourage complaints designed to harass local school districts.

(5) Tribe opts to leave local educational agency

If the determination of the Commissioner necessitates remedial action on the part of the local school district, and such action is rejected and/or if the Commissioner sets a time within which the local school district must comply which is not met, or extended, a tribal council may elect to pull its children out of that local school district and either contract with the Bureau of Indian Affairs (BIA) to operate a school for its own students under Title I of the Indian Self-Determination and Education Assistance Act (P.L. 93-638) or request the Bureau to provide the needed educational services for the children through Bureau day or boarding schools.

In either case, the transition shall be carried out as expeditiously as possible. Where construction or alteration of present facilities is necessary, the Bureau of Indian Affairs shall specifically request the funds for the particular project involved. The Commissioner in formulating regulations, should bear in mind the "social costs" (i.e., discrimination, whether overt or covert) which Indian students may be subject to during the transition period and the compensating need for stability in public school financing.

Unfortunately, the Committee must address itself to the historical phenomenon commonly referred to as "kid rushes." In the past, when federal funding for Indian students has been increased, local school districts have expanded their boundaries, or bus routes within their boundaries, for their own benefit. Unfortunately, this territorial increase has not been accompanied by an increase in concern over the quality of education given these same students. This has often been abetted by the Bureau policy of encouraging or requiring Indian students to attend the public schools where bus lines are provided. The Secretary of Interior shall take steps to see that no actions of the Bureau encourage or tolerate this activity, or force, in any manner, the attendance of Indian students in public schools.

In the event of a transfer to either a tribal contract school or a Bureau-run school, an amount equal to the sum of the 874 "money" lost by the decrease in the number of Indian students shall be transferred to such contract local school district or BIA school. The transfer could be facilitated by the President's submission of a budget amendment to the Congress (by March 31), which will transfer program monies affected by a tribal exercise of its option under section 3(d)(2)(D)(v) from the Department of Health, Education, and Welfare to the Department of the Interior.

Nothing in this Act shall be deemed to preclude any tribe or tribes which have exercised either option under section 3(d)(2)(D)(v) from thereafter electing to return their students to the local educational agency.

(6) Majority Indian school board

The complaint procedure shall not apply to a local school district having an elected school board, the majority of which is Indian, since it is readily apparent that in such a situation, the Indian parents already have a voice in the education plan.

(7) Funding Provision

This section directs the Bureau to distribute funds appropriated under the Snyder Act for contracting under the Johnson-O'Malley Act's supplemental program according to a formula which would provide that no State could receive an allocation which is less than 80 per centum, nor more than 120 per centum of the average per pupil expenditure in the United States, except Alaska, which shall receive no more than 145 per centum, reflecting the Federally recognized Alaskan cost-of-living differential. This section was included largely in response to a January 1977 Bureau-conducted study on Johnson-O'Malley (JOM) funding formulas, which sought to determine which formula the tribes, area offices, and Indian organizations thought provided the most equitable distribution of JOM supplemental funds. Of the tribes which have children in Local School Districts receiving JOM funds, the overwhelming majority favored the formula contained in this bill. The Bureau, however, has seen fit to institute another formula, which heavily favors states with very high average per pupil expenditures.

PART B—BUREAU OF INDIAN AFFAIRS PROGRAMS

(1) Standards for the Basic Education of Indian Children in BIA Schools

The Secretary of the Interior, in consultation with the Assistant Secretary of HEW, is directed to work with the National Institute of Education and the National Center for Educational Statistics, and with tribes and Indian organizations to develop standards for the basic education of Indian children attending Bureau schools or schools operated under contract with the Bureau. During its field visits, the Committee witnessed an incredible absence of standards for the basic education provided Indian children attending Bureau day and boarding schools. The Committee feels that a maximum effort, utilizing existing studies where possible, is needed to determine and establish these standards. Although this is an effort requiring cooperation by Federal agencies and tribes and organizations, final responsibility for completion of the standards rests with the Secretary of the Interior.

The standards are to take into account, but not be limited to, the academic needs of the Indian children, local cultural differences affecting the children, the type and level of language skills, the geographical isolation of the children and appropirate teacher-student ratios.

Current problems with many of the boarding schools appear to be, in part, due to undefined national goals. For example, to include a course in vocational education, per se, as part of the basic standards, may be too broad a directive to apply to all Bureau schools. Efforts should be made, to the extent possible, to develop standards which reflect the needs of the specific areas. In the formulation of these standards, the participation of Indian tribes and individuals is to be taken into account and adjustments should be made, wherever possible, to accommodate these wishes. These adjustments, as are necessary, are left to the Secretary's discretion. However, the Committee expects the Secretary to exercise this discretion freely. The Secretary is also encouraged to consider the standards for education programs adopted by the Tribal Council being served, when such exist.

Finally, subsection (d) requires the Bureau to ensure that each basic educational program meets the minimum standards of education in the State in which it is located. The Committee views the creation of such a floor necessary to guarantee a minimum equal educational opportunity for Indian children educated in Bureau schools. However, the Committee is also aware that State standards often do not adequately meet the needs of Indian students. These standards are to be a floor, and are not to be indiscriminately implemented "en masse" by the Secretary. In some cases the creation of national standards may not adequately meet the total educational needs of the Indian students as those needs are perceived by parents or tribal councils, so the Secretary is given authority to alter these national standards according to the needs of a specific tribe, as long as he does not allow the standards to fall below what is outlined in subsection (a) and (d). Similar authority is given in the case of contract schools.

The standards shall be applied to all schools operated by the Bureau not later than the beginning of the first school year which follows the date of their issuance, providing the beginning is at least six months following issuance of standards. These standards shall apply to Indian controlled schools which are under contract with the Bureau only to the extent that their school boards request the standards to be implemented. Initial failure to meet these standards will not constitute grounds for refusal by the Secretary to contract. Such sums as needed are authorized to be appropriated to carry out the provisions of this section.

(2) National Criteria for Dormitory Situations

Equally important to the establishment of basic education standards in the Bureau schools is the creation of a national criteria for dormitory living environments. The Committee visited both off-reservation and on-reservation boarding schools as well as peripheral dormitories, and many parents and tribal leaders throughout the country expressed grave concern that the boarding school experience had been a negative one for their child. Boarding schools, while sometimes necessary, remove children from the protection and warmth of a home environment. While this loss could be minimized, current Bureau policy does not have this effect. Without adequate out-of-school supervision, some parents contend that boarding schools destroy or damage their children, leaving them more emotionally and socially disadvantaged than before they entered school. Leaving the school with a minimal amount of educational achievement, affected by the problems of drugs, smoking, alcoholism, and teen-age pregnancies, and cultural and personal disorientation, the student often will not return to the reservation. If they do, they often do so as a person incapable of meaningful participation in tribal activities. Their opportunities off-reservation are limited because of academic underachievement while in attendance at the school.

These standards for dormitory living arrangements shall be established within eighteen months of the enactment of the Act and shall take into consideration, but not be limited to, the need for counselors (especially in off-reservation dormitory living arrangements), the appropriate adult-child ratio, and space and privacy needs. Within one year after the standards are established, the Bureau shall make a detailed report to Congress outlining the steps necessary for the implementation of these standards and an appropriate timeline to take such steps.

(3) Regulations

Directs the Secretary to establish regulations to carry out sections 1121 and 1122 within 18 months.

(4) Studies

This section authorizes up to $1,000,000 of the sums appropriated under the Snyder Act be used to carry out the studies under sections 1121(a) and 1122. It is the intent of the Committee that this authorization shall not take away from current Bureau expenditures in other programs. Rather, the Committee expects the Bureau to request additional funds in their budget for the completion of the studies. If the Bureau does not request additional funds and the moneys are drawn from currently operating Bureau programs, the Committee requests that all Bureau programs, and not just education, share proportionately the cost of the studies.

(5) Facilities Construction

In almost every State the Committee visited, facilities were found that pose an extreme danger to the health and safety of the children attending. The incidents are too profuse to list inclusively, but a few examples will help illustrate the Committee's concern.

In the village of Shaktoolik, Alaska, the elementary school was being conducted in a temporary facility with only two exits. Next to one of the exits of the building is the gas furnace which provides heat for the entire facility. In the event of a malfunction of the furnace or a fire, the only other exit is a back door which is blocked during the winter by snow drifts and wind.

In schools in Oklahoma, Arizona, and New Mexico, the Committee found uninsulated and unwrapped steam pipes located directly above the dormitory bunks. Sitting up in bed could cause severe burns for these children. Additionally, the Committee found that failure of toilet facilities is chronic in some schools. These are only a few examples. The Committee found repeated cases of unsafe or unsanitary conditions. This section mandates that the Bureau bring all Bureau or Indian controlled schools operated under contract with the Bureau into compliance with Federal or State health and safety standards, whichever provide greater protection, as quickly as possible. This section shall be considered to be a remedy, not an excuse for closing facilities. The Committee has made it clear that no facility, currently in use, is to be closed, except where temporary closure is necessary to permit repairs.

The Bureau is directed to submit to the Congress and to have published in the Federal Register the system used to establish priorities for school construction projects, along with current list of all school construction needs and priorities. This section carries with it a "such sums" authorization to aid the Bureau in meeting health and safety standards.

(6) Bureau of Indian Affairs Education Functions

The Secretary is directed to transfer the responsibility for and authority over education programs within the Bureau to the Director of Bureau's Office of Indian Education Programs. This constitutes a shift in policy and procedure formulations, monitoring and evaluation control, but not ultimate responsibility. This includes the transfer of line authority over Bureau education personnel in all Bureau levels. The Director, under the Secretary's direction, will exercise this authority with restraint. Sections 1129 and 1131, which give substantial authority to local supervision and local BIA school boards, adequately demonstrate the Committee's intention to give local schools the authority to function as autonomously as possible. The Committee, while realizing the need for ultimate Federal control, wishes it plainly understood that it envisions local parent committees functioning in a role analogous to local school boards. The Committee has great faith in the abilities of local parents to serve in this capacity.

While this will not affect the ultimate authority of thet Secretary in any way, it will remove non-education personnel (area directors and agency superintendents) from control of Bureau education programs. This directive does not have the effect of either eliminating or creating jobs, though some shift of responsibility and job descriptions will probably take place at both the area and agency levels. While no separate support service for education is required, such is permitted. Those employees whose current duties are solely educationally related will become educational personnel. The Committee would view the assignment of other duties to such individuals to make their status "noneducational" a serious violation of Congressional intent. Additionally, the Secretary shall establish practices guaranteeing education people access to other support personnel on a time sharing basis. In order to facilitate this reallocation of responsibility, subsection (c) spells out some specific duties to be fulfilled by agency personnel.

The Committee has been extremely disturbed by reports that area directors and agency superintendents, in attempts to sabotage such a transfer and generate opposition to this measure, have informed education personnel and tribes that if such a transfer occurs, the area and agency directors will cut off or hinder needed and vital support services. The Secretary shall be mindful of these problems and shall take swift action against any individuals guilty of these practices.

Additionally, the Secretary shall establish whatever channels of communication are necessary between the Division of the Bureau, both education and non-education in nature, that he feels are necessary to see that support for education is forthcoming on a regular and timely basis. The Committee will, through its oversight authority and community contacts, closely monitor this activity.

The transfer of duty and authority required here is complemented by a shift of authority over daily program decisions, budget and personnel to the local school supervisors and their local parental school boards (sections 1129 and 1131). This shift shall give Indian parents true, meaningful participation in Bureau schools for the first time. It will also fill the gap between total Bureau control and contracting a school under P.L. 93-638, an often unacceptable alternative.

(7) Implementation

The Secretary must, within six months after the date of enactment of this Act, establish and publish in the Federal Register the policies and procedures which are necessary to implement the transfer of authority over education programs.

(8) Alloment Formula

The Secretary is to establish a system for allotting BIA education program funds based on per capita student counts. This system will probably be a series of formulas for on-reservation or off-reservation boarding schools and day facilities based on the characteristics and needs of each type of school and the special programs offered. The Bureau is currently working on such a formula under a Congressional mandate included in Congressional Appropriations Committee report language (Senate Report 94–991, p. 20, and the Committee anticipates no delay in its implementation.

Because the needs of each school differ substantially, the Secretary is directed to take into consideration, among other factors, the number of Indian students served, the size of the school, special cost factors that may inflate the need (such as isolation of the school), the need for special staffing, transportation or educational programs, the cost of food and housing, and the cost of providing academic services which are at least equal to those provided by the public school in the State in which the school is located. Distribution of funds under such a formula should stop the practices of distributing BIA education money based on which Area Office has the greatest "political pull" and diverting Bureau education funds to meet other Area expenses.

The Committee suggests that the Secretary consider making the basic maintenance and plant operation budget for each school a separate item of the formula to be added after a per capita program cost has been established. The Committee feels such costs are fixed and should not be subject to student fluctuations, and that there are great differences in building age, condition, and maintenance costs, even between schools in the same geographic regions.

The Federal program moneys which the Committee feels should be taken into consideration in arriving at the sum to be matched by the Bureau are Impact Aid entitlement and payments under Part A the Indian Education Act of 1972. Subsetion 1128(b) is directed at achieving rough parity between Bureau and local educational agencies within the same area, and the Secretary should remove from consideration the costs of services not provided by both system (such as boarding expenses in Bureau schools).

The Committee is aware that no formula can provide no-fault insurance over unforseen emergencies and contingencies. The Committee has provided for this by the creation of a contingency fund. This fund as spelled out in subsection 1128(c) is a necessary part of the allotment formula and the Secretary must monitor it carefully to ensure against abuses. The Committee interprets "unforseen contingencies" as those budgetary shortfalls caused by factors outside the allotment formula, such as unusual maintenance or repair, or unforseen changes in local procurement costs. Monies under this subsection are to be allocated on the basis of merit, not influence.

(9) Uniform Direct Funding and Support

The Secretary, using the fromula fixed under section 1128, will establish a system for direct funding of Bureau and contract schools by use of an advice of allotment. The formulation of the basic program for each school (subject to the standards of sections 1121 and 1122), will be the business of the school supervisor and local parent school board. Technical assistance will be provided from agencies or areas. This program plan so formulated will be the basis of agency and area monitoring and evaluation, with requests for supplemental funds being transmitted directly to the Central Office of the BIA. The Secretary shall use his discretion in establishing systems for actual fund disbursement and accounting, being mindful of the fact that schools will have varying capabilities for those duties. In all instances, this Act should be a guarantee that the right of educators to have local control of education programs will be protected.

The Committee has authorized the local parent school board, either on its own or in response to a supervisor request, to change the basic program to meet unforeseen circumstances. These circumstances may include the non-relevance of a chosen program.

The funds authorized by Section 104(a)(2) of P.L. 93-638, the Indian Self-Determination and Education Assistance Act of 1975, were specifically authorized for improving a tribal organization's ability to enter into a contract. However, current Bureau policy has led to distribution of these funds on a political basis, for purposes other than technical assistance and training. Besides violating the authorizing mandate, such distribution means that those tribes who want to conduct training programs going towards contracting, or which need technical assistance, are told that no funds are available. This section will remedy that situation by releasing the money only after the tribe or tribes affected submit a plan which outlines the specific programs to be assumed and the time set for such assumption.

(10) Policy for Indian Control of Education

The Committee regrets that this section is necessary. The policy of self-determination has been a Congressional mandate since the enactment of the Indian Self-Determination and Education Assistance Act of 1975 (P.L. 93-638). As the Federal agency given the main responsibility for handling the relationship between the Federal government and the tribal governments, the Bureau should have taken an active part in its fulfillment. Despite its public statements supporting the policy of Self-Determination, the BIA seems to resist this policy in its dealings with tribes. Much of the resistance seems to be centered in the area level and central offices. One top BIA official announced that Bureau policy is "self-determination through contracting." Despite the clear language set forth in P.L. 93-638, language which doesn't limit participation and self-determination to contracting, the same individual said that the policy of self-determination has been too broadly interpreted. The Committee finds such an attitude deplorable, and in order to make Congressional intent clear, has restated its position in the law.

(11) Education Personnel

This section addresses one of the most serious problems the Committee uncovered during its two year study. Due to the cumbersome process of recruitment under the Civil Service System, many Bureau teacher and educator positions remain vacant for long periods during the school year. The Committee, with assistance from the staffs of the Subcommittee on Employee Benefits and Compensation of the Committee on Post Office and Civil Service, and the Department of Defense Overseas Schools program administration personnel, has established the following system for the hire of Bureau educators:

(1) The Secretary is to formulate regulations pertaining to educators, including employment ceilings, teacher qualifications, compensation levels, procedures governing the appointment and discharge of educators and other matters appropriate to carry out this section.

(2) Beginning six months after the date of enactment of this Act, new educational employees of the Bureau will not be subject to Civil Service competitive examinations. They will, however, retain all other Civil Services benefits.

Chairman Nix of the Post Office and Civil Service Committee, in a letter to Chairman Perkins dated March 31, 1978, expressed concern that the inclusion of this section in H.R. 15 might have the effect of transferring jurisdiction over these employees from the Post Office and Civil Service Committee to the Education and Labor Committee. The Committee on Education and Labor wants to make clear that no such transfer of jurisdiction is intended. The Committee is taking the action described in this section of the bill because of the impact teacher and education personnel vacancies has had on the quality of education in the Bureau Schools. It is not the intention of Education and Labor Committee to acquire jurisdiction over these employees. Any such interpretation would be erroneous.

(3) Certified lists of qualified and interviewed applicants will be maintained in the agency, area, and national offices. Persons who are interested in employment in only a limited number of Bureau areas must apply and be interviewed in those areas. The national list is for persons willing to work anywhere in the United States. The same standards shall be applicable when certifying education personnel, whether it be done at the area or national level. The only personnel changes envisioned by the Committee in the Bureau will be those changes needed to give the area offices the capability of certifying employees.

(4) From these lists, local supervisors shall consult with the local parent-school boards and hire educators for their schools. The recommendation of the parent will be followed, unless reversed by higher Bureau authority, pursuant to subsection 1131(c)(2).

(5) The school supervisor could terminate, for cause, education personnel at a school, *after* consultation with the local parent school board. A grievance procedure, guaranteeing due process, must be established by the Secretary.

(6) Teachers would be hired for nine or ten month periods and no present employees would be covered under the new system unless they so elect within five years.

(12) Management Information System

Within one year after the date of enactment of this Act, the Secretary of Interior is to have established a computerized information system which will coordinate information between the agencies, areas, and the central office. Information stored will cover figures for at least six areas for all Bureau schools: student enrollment, curriculum, staff, facilities, community demographics, and student assessment information. Currently the lack of available information hinders accurate budget proposals and justifications, policy evaluation, and formulation or program monitoring.

(13) Bureau Education Policies

Within 180 days the Office of Indian Education Programs shall submit to the Bureau field offices, the tribes and the Congress, a draft set of education policies, procedures and practices for all education-related activities. Within one year following the end of the 180 day period, a finalized set will be adopted and published in a manner which will be readily available to all interested parties. Coordination of education policies should facilitate the streamlining of education services of the areas and agencies, establish limits for Bureau interference in tribal education programs, and aid Congress in conducting more thorough oversight.

(14) Uniform Education Procedures and Practices

The Secretary is to see that the procedures which govern activities of other divisions within the Bureau which are related to education are developed and administered uniformly throughout the Bureau. Although this part of the bill is concerned primarily with the Bureau's education activities, it is the Committee's findings that coordination of support services are vital to promoting effective education. Therefore, uniformity of policies and procedures that impact on education is needed within all divisions of the Bureau.

(15) Recruitment of Indian Educators

This section requires the Secretary to actively recruit qualified Indian applicants and to institute upward mobility procedures for those Indians already employed by the Bureau.

(16) Annual Report

The Secretary shall submit a report each year to both the authorizing and appropriating committees of the House and Senate on the state of Bureau education and any problems which may require legislative oversight or action. The Secretary will have the responsibility to actively seek out recommendations from Bureau program personnel, parents, tribal officials, and Indian organizations, and then to suggest means for improving programs and increasing local Indian control. The Secretary shall include a special section which details current Bureau needs and priorities under Section 1125 and indicates the Bureau's progress in meeting those needs. The Committee expects that the Secretary's report will represent a thorough and exhaustive effort to provide meaningful and timely information on the operation of each Bureau education program.

(17) Effect on Bureau Funding

Nothing in this Part shall affect the current level of appropriations which the Bureau is receiving, including the Snyder Act and education-related assistance programs within the Department of Health, Education, and Welfare, such as The Indian Education Act, bilingual education, and reading and math improvement moneys.

(18) Regulations

For sections 1126 through 1136 of this Title, regulations shall come under stipulations outlined in Sec. 403 of the General Education Provisions Act.

(19) Definitions

Defines terms within the bill.

PART C—INDIAN EDUCATION ACT AMENDMENTS

The Indian Education Act of 1972 (Title IV, P.L. 92-318) is considered by many as the single-most important program assisting Indians in the education of their children. Because the definition for "Indian" under the Act is much broader than that of other Indian educational assistance programs, Title IV assists more Indians than any other Federal program. The Committee has not undertaken an extensive revision of the program, but has reauthorized the Act for five years, adding a few amendments.

Throughout the past two years, the National Advisory Council on Indian Education has offered much assistance in providing background information and understanding of problems related to the Act. Unfortunately this Advisory Council has been underutilized by the Office of Education in strengthening the program of Indian education. The Committee is concerned that the function of coordinating all programs within the Department of Health, Education, and Welfare as mandated under Section 442(b)(3) of the Act has not yet been carried out and fully recommends that the Commissioner provide the Advisory Council with the resources it needs to carry out this important task.

(1) Extension of Authorization

The Indian Education Act is reauthorized for five years at the current funding levels.

(2) Culturally Related Academic Needs

An amendment is added which broadens the scope under Part A to provide assistance for not only the special educational needs of Indian students, but their culturally related academic needs. Many Indians have complained that the program does not address the cultural needs of Indian students, contrary to the initial Congressional intent. Programs of a cultural nature are especially important in urban areas, where the Indian child is far removed from his tribal heritage, or where the proportion of Indian students to the total student body is small.

In no way would the inclusion of culturally related education programs be construed as a departure from the importance of providing basic educational instruction to Indian students through the Part A entitlements. It is the intent of the Committee that the parent advisory committees be consulted as to the type of program that best suits the educational needs of their children.

(3) Demonstration Projects

This section creates an authority within Section 303 of Part A for the funding of demonstration projects concerning the special needs of Indian students. There is authorized a sum no greater than 10 percent of the funds appropriated for the entitlement program under Part A for the purpose of making grants under this section to local educational agencies to conduct demonstration projects.

Although local school districts may compete for demonstration project monies under Part B of the same Act, the policy of Indian preference in grant awards has prevented local school districts from gaining the resources needed to carry out the projects.

(4) Parent Committees

The Committee bill section provides that those persons serving in the role of *in loco parentis* are eligible to serve on the parent committees which oversee the operation of the Indian Education programs. This provision is long overdue because of special circumstances that often necessitate someone other than the parent from raising the child. Under this amendment grandparents, foster parents, and guardians of the children are eligible to serve on the PAC.

This section is further amended to give parent advisory committees input into hiring the personnel paid for out of the Indian Education Act funds, but does not give the parent advisory committee control over the hiring and firing of those persons.

Parents are also required to establish, adopt, and abide by by-laws which would govern their conducting programs under Title IV.

(5) Tribal Schools

This amendment provides that Indian-controlled schools under contract with the Bureau of Indian alternative schools are granted status as a local educational agency for the purpose of receiving Part A entitlement payments under section 303(a) of the Act. These schools shall remain eligible to compete for program monies under the 10 percent set-aside currently in the Act. Due to the increased number of alternative and contract schools in the past five years and problems which some schools have had in the awarding of competitive grants from their tribes, it was determined that the needs of the alternative and contract schools would best be served by including them as eligible participants under both programs for Part A.

(6) Revision of Definition

This section tightens the current definition of "Indian" by removing the provision which would qualify a tribe's participation in the program based on future recognition by a State, and by deleting the provision which qualified a child as Indian because he is a decendant in the second degree of a member of a recognized tribe. This amendment is consistent with the recommendation of the National Advisory Council on Indian Education.

At present, the definition of "Indian" is so broad that the Committee has seen the abuse in the counting of children who are eligible to participate under the program and the inability of program people in the Office of Education to effectively monitor the participation in this program or evaluate its results.

Section 1147 (a) and (b) broadens the scope of eligible pilot and demonstration projects under Part B of the Act by adding "gifted and talented" programs and broadening "preschool" to include "early childhood" programs. The language is clear that funding for kindergarten under Part B is to continue.

Section 1147(c) authorizes a contract and grant program to establish regional technical assistance and information dissemination centers throughout the United States. A sum of $8,000,000 is authorized, with no more than 15% of the funds appropriated each year going to state educational agencies to establish State coordinated programs in dissemination and technical assistance. This program will alleviate one of the greatest needs in the Title IV programs operation: the lack of information on grants available, program operations, etc. The Committee also specifically directs that these centers provide information on successful programs on request, to encourage replication of such programs where appropriate. None of the appropriations under this section shall be used for program operation. The Committee requests the Commission to include in his annual report, details on the activities taken pursuant to grants under this section.

(7) Technical Amendments

Section 1147(d) insures that no funds made available under subsection (e) will supplant other funds from State, local, and other Federal programs.

Section 1147(e) contains the authorization level of $8 million for subsection (c).

Section 1147(f) provides that an initial Part A payment shall be made based on the local school districts' estimated expense for conducting the program. This will allow school districts to participate in the program without causing them to pay for the program with other funds until reimbursement is made. It should encourage the participation of school districts who do not have sufficient funds to meet the start-up costs of the program.

TITLE XII—ADULT EDUCATION

OVERVIEW

Since the initiation of a Federal adult education program in the Economic Opportunity Act of 1964 and its subsequent redirection in the Adult Education Act of 1966, funds for adult public education have grown 17-fold, enrollments have tripled, and millions of adults have received tangible benefits in terms of educational achievement, employment and other life skills.

The Act authorizes grants to the States for programs to be funded under approved State plans. These State grants have enabled over 6.7 million adults to participate in programs since 1966. Over 1.6 million were enrolled in fiscal year 1976.

Since 1966 over 1,445,000 adults have achieved an eighth grade educational level through their participation. Since the authorization of instruction through the high school level in the 1970 amendments to the Act, approximately 901,500 adults have achieved a high school education or its equivalent.

The Office of Education estimates that in a single year 107,759 adult education enrollees obtained employment or better jobs and 17,952 were removed from public assistance. In 19 States alone, $14.9 million was saved in one year due to participants being removed from welfare rolls.

States are required to match their Federal adult education funds at a 10–90 ratio. Since 1967, State and local funds have increased from $4.8 million to an estimated $43 million and now comprise about 33 percent of total program funds.

Under the component in the legislation for staff development, approximately 200,000 teachers, administrators and support personnel have received training since 1966.

PROBLEMS

(1) Lack of Outreach

A research project funded by the Office of Education to identify the life-related educational needs of American adults found that despite the above accomplishments of adult education programs, one out of five American adults—or 23 million people—lack the skills and knowledge needed to function minimally in day-to-day living. This Adult Performance Level Study also found that an additional 34 percent—or 40 million persons—meet the minimal level but lack the competencies required to be proficient in everyday living.

This study suggests that there are still millions of adults in desperate need of basic education services who are not now being reached. Statistics from the Office of Education confirm this: out of more than 14 million adults over age 25 without an eighth grade education, only slightly over 928,000 are being served.

Although the present legislation gives priority to the least educated adults, 65 percent of all program enrollees have at least a fifth grade education. Statistics indicate that those adults served by adult basic education programs are those most easily reached: more employed are served than unemployed; more advanced level students than beginning level; more than 35 adults than under 35; more females than males. In addition, the turnover in these programs is high: more than 40% leave before completion. Reasons cited for leaving include health, child care, transportation, and class time problems.

In light of these facts, the Committee wishes to reemphasize that the fundamental purpose of the Act is to provide adult basic education for those who are least educated and most in need of this assistance. The needs of those individuals have not been adequately met to date and now is not the time to loosen up the requirements of the Act to spend more funds on those who are better educated and closer to achieving high school equivalency. For this reason the Committee adopted amendments that specifically direct that the required State plans describe how the program in each State will reach some of the adult populations traditionally most in need of, and least likely to participate in, adult education.

Moreover, amendments were adopted by the Committee to emphasize that programs must be much more flexible in their course offerings, locations, and in terms of providing for additional services such as day care and transportation, in order to ease the participation of those seeking assistance. Public agencies and private non-profit agencies are proposed as recipients of funds in order to broaden the outreach of these programs, but these agencies may only receive such funds of the duly constituted educational agency concurs. In another attempt to broaden the outreach of the program, the States are newly required to seek the active participation in planning and in operation of the programs of such other public and private agencies and also those needing assistance in poor rural areas and in the inner-cities. All of these amendments have as their purpose the expansion of these programs so that they will be more readily available to those most in need of assistance.

(2) Outdated Standards

A second conclusion that can be drawn from the Adult Performance Level Study is that the basic thrust of the legislation—to help persons attain their grade level equivalency goal—may not adequately reflect the real needs of adults in our society. Dr. Paul Delker, Director, Division of Adult Education, U.S. Office of Education, testified that "the failure to attract the least educated adults is attributable in part to local adult education directors' inclination to serve adults who are striving to earn their high school diploma and are demanding services. This goal is not often part of the motivation of those functioning at the fourth grade level and below."

Forty-four States have already given priority to programs built around achieving minimum competencies in at least one area. Two States have actually begun to implement State-wide competency based adult programs and at least 10 States have begun to develop such programs.

For this reason the Committee bill modifies the Act to emphasize that programs must seek to provide functional literacy to participants. This amendment, however, is in no way meant to diminish the principal thrust of the Act which is to focus on those most in need of adult basic education; rather, it simply seeks to restate the type of education to be provided to those individuals in order to emphasize skills needed in everyday life.

(3) Need for Research

More research into competency based and other models needs to be conducted and disseminated. Witnesses testified that research and demonstration funds need to be made available not only to the States, but also to the Federal government for addressing national issues, problems and priorities. An additional research concern is that such activities should have as their purpose, the development and dissemination of models, materials and practices that are demonstrably useful and effective. In the past, much research and development has failed to be scrutinized against these practical standards. Therefore, the Committee has also adopted amendments directing the National Institute of Education to both evaluate and validate the products of Federal and State level research and development activities funded under this Title. NIE is to disseminate, through the National Diffusion Network, only those research products which have met such practical standards and the standards in use for selecting NDN products. The functions of the National Clearinghouse on Adult Education have also been amended to indicate a more selective approach to information dispersal.

Consequently, the Committee bill authorizes funds for the National Institute of Education to conduct research activities involving adult education and to conduct experimental programs of national significance. The Commissioner is also authorized to evaluate the effectiveness of adult education programs.

(4) Paperwork and data collection

As in many other sections of the bill, amendments are adopted to the Adult Education Act to permit the filing of permanent applications of assurances from State and local agencies and to permit the filing of 3-year State plans instead of annual plans. These amendments, of course, have as their purpose the objective of reducing unnecessary paperwork in this program.

Lastly, the National Center for Education Statistics is directed to assume responsibility for the collection of data on adult education programs. The Committee has been impressed by the work of the National Center in performing this function for the vocational education program as newly required by the Education Amendments of 1976, and it has also been unfavorably impressed by the data on adult education presently being collected by the Office of Education. The Committee in transferring this function from the Office of Education to the National Center for Education Statistics, however, does not expect a massive data gathering operation to be mounted; rather, it intends that the National Center for Education Statistics improve the quality of data on adult education within the context of the relative importance of that program in the appropriations provided for education programs within the Office of Education.

TITLE XIII—ADMINISTRATIVE PROVISIONS

PART A—SCHOOL FINANCE AND EQUALIZATION

The Committee held two days of hearings on the issues of how the States distribute their funds for elementary and secondary education and whether the Federal Government ought to become more involved in encouraging a more equitable distribution of these funds. These issues are generally labeled "school finance issues" or "equalizations issues."

During the Committee's hearings the Department of Health, Education, and Welfare testified that in 1975 there was more than a 50 percent difference in the expenditures for education between the highest and lowest spending school districts in 40 States when pupils above the 95th percentile and below the 5th percentile in expenditures were excluded, and that in four States this difference in spending was more than double. Between 1970 and 1975, even though 20 States passed school finance reform measures, the result was that 15 of all the States reduced their disparities, 15 States increased their disparities, and 19 States remained about the same. Among the 20 so-called "reform" States only actually eight decreased their disparities.

In other words, even with the recent burst of State legislative activity in this area, the most that can be said is that the reform effort of the last few years has only offset a general trend toward increased disparities. The reform States were the ones most in need of reform in the beginning of that period and they improved their relative standing among the States during this period. The cities also did very well in this period since their expenditures increased $500 a pupil and 55 percent of this increase came from States and from the Federal Government.

In the opinion of the Library of Congress, 10 to 12 States have really equalized their school finance schemes with there being no major difference between the reform and non-reform States. The two principal reasons why the reforms have not brought about a greater improvement is that their changes have generally been imposed on top of present patterns of distribution and that these reforms have not always been fully funded.

In the hearings there seemed to be a general consensus that there was a need for a greater Federal role to encourage the States to equalize their expenditures in a better fashion, although there was considerable disagreement about how to formulate exactly this role and about how much the Federal Government ought to invest in this effort.

In addition, it became evident during the hearings that there was a lack of reliable data and useful information concerning the present status of the States' efforts to achieve fiscal and educational equity in the financing of elementary and secondary schools. Even though various organizations are gathering data related to the financing of schools, the formats are not consistent and reliable cross-State comparisons cannot be made. Additionally, there appear to be differences of opinion concerning operational definitions of such terms as equity and equalization as applied to resources available for the education of children in elementary and secondary schools.

The Committee hearings indicated that, at the present time, two measures are used to express the level of equalization of fiscal resources achieved in the State school support program. One is expenditure disparity; this measure provides data concerning the differences in expenditures per pupil among the local school districts in a State. Some witnesses viewed expenditure disparity as the better measure of equalization under assumption that the State's role in equalization is to assure that equality in funding is achieved in the State school support program.

The second measure of equalization is often referred to as wealth neutrality; under this measure, equalization is expressed in terms of the degree to which the amount of funds available for the education of children in a district is not dependent upon the incidence of per pupil taxable wealth in the local school district. Witnesses pointed out that, under wealth neutrality, the level of funding is dependent upon the local district's level of effort, as measured by local tax rate. Funding for a child's education could be high or low depending upon the aspirations of the local citizenry.

The Committee recognizes certain inadequacies in both of these measures of equalization, and the need for additional measures of equalization is one of the principal reasons for funding these various equalization activities as proposed in the Committee bill. Both measures appear to be more oriented toward equalization of fiscal resources than to equalization of educational opportunity for school children.

The Committee's hearings also reviewed the work which has been done in this area with funds available under section 842 of the Education Amendments of 1974. That program has provided $14 million to plans for their school financing. All States were entitled to a certain portion of these funds, and since 1974 only 3 states has not availed themselves of their entitlements.

It seems that these funds have been very helpful in addressing problems in some States, that they have been used to pay for work already done in other States, and that their effects are not as yet fully known in most States. The Committee's amendments discussed below require the Commissioner to learn what has been accomplished to date with these funds and encourage the Office of Education and the States to use the new technical assistance being proposed in this bill to build upon this experience.

The general conclusion to be drawn from the Committee's hearings is that the data is not presently available for the Federal Government to formulate wise policy in this area, that a consensus is lacking on the methods of properly measuring equalization between the States and also within States, and that more thought must be given to the wisest way for the Federal government to encourage State efforts at equalization. A general feeling also arose from the Committee's hearings on all of the expiring Federal programs in elementary and secondary education that now is also the time to begin to think about the broader issue of how all of the Federal government's aid to education programs fiit within the overall scheme of our nation's educational system. Now that Federal aid to elementary and secondary education is an accepted fact, and now that many of these programs have had ten or more years of growth and development, and now that many of the States and local school districts are responding with their own funding to the needs first presented by particular Federal aid programs, we must step back and try to think through as thoroughly as possible the long-range role of the Federal Government in this area.

Consequently, the Committee bill would authorize three separate but related activities concerned with research and technical support about equity in funding for public elementary and secondary schools. First, the National Institute of Education would be authorized to conduct a comprehensive review of the current status of funding public elementary and secondary schools to analyze the differential impact of school finance reform on various types of school districts, and to formulate and test alternative measures for determining equity in funding these schools. This study would also encompass a consideration of the general issue of the proper role of Federal aid in all of elementary and secondary education. It is also anticipated that this study could include a review of the financing of private schools.

The NIE study would consist of a review of recent court decisions and legislative actions, case studies of States with the greatest equalization of resources, special analyses of particular types of school districts and segments of the population, an analysis of the existing programs using various measures of equalization, and a study of the impact that various Federal funding programs have had on the efforts of States to attain equalization. From these activities it is anticipated that recommendations will be presented to the Congress for alternative Federal roles in the financing of schools that will contribute to a greater equity and increased educational opportunity through the financing of schools from Federal, State, and local revenue sources.

The Committee bill contains specific procedures that are to be followed by NIE in the design and planning stages of the research activity. During the planning stages periodic reports will be made to the Congress to assure that the activities are to be planned and conducted in a manner consistent with Congressional intent. Of particular interest to the Congress is that the researchers involved in the various activities be representative of the broad range of private and public institutions and organizations interested in the financing of elementary and secondary schools and of the variety of perspectives held by scholars in the field. As to the organization of the research activities, the Committee contemplates that the NIE will recruit a respected and knowledgeable team to direct the research in the same manner as was done for the studies of compensatory education programs conducted under the provisions of P.L. 93–380.

The NIE is to make interim reports to the Congress no later than December 31, 1979, and December 31, 1980, with the final report due by December 31, 1981. Through these reports, the Congress will be kept informed of the progress of the studies and will have an opportunity to provide advice and consultation during the planning stages of the various activities. The bill specifically provides that any reports from the research activities conducted by NIE are not to be submitted to any review outside of NIE before the transmittal of such reports to the Congress.

Although the Committee has set no specific authorization of appropriations for this study, the bill provides that funds available under section 133 of the Elementary and Secondary Education Act are to be made available for this purpose. A funding level of $3 million per year for three years appears appropriate to the Committee, given the comprehensiveness of the study.

The Committee bill also requires the National Center for Education Statistics to collect uniform data from the States on the financing of public and private elementary and secondary schools and to develop composite profiles of each State showing the degree to which equilization of resources has been attained among the school districts in the State. The Committee anticipates that this activity will not necessarily constitute a separate data gathering effort by NCES, but that the data required for this compilation of the equalization status of the various States can be gathered as a part of a normal data gathering process without imposing an undue burden on the local and State educational agencies. Presently, the information used to assess the level of equalization is not consistent among the States; the intent of this effort is to develop and maintain a consistent data base from which the equalization determinations may be made.

The Committee hopes that NCES will work with the Office of Education in compiling these composite profiles of the States since OE has already collected data pursuant to its duties in carrying out section 842. The Committee also hopes that NCES and NIE will avoid any duplication of effort in their data-gathering activities. States and school districts are already being asked to supply too much data by the Federal Government, and there is no need to exacerbate the situation.

The Committee has also authorized the Commissioner to expand important activities previously funded under section 842 of P.L. 93–380. Under the provisions of this legislation, the Commissioner has been authorized to provide funds to States to assist them in the development of State plans to bring about greater equity in school funding. These State plans are to be completed and submitted to USOE by September 30, 1978.

In several instances, the initial funding may be sufficient to enable States to develop plans leading to the improvement of their funding programs for elementary and secondary schools; however, in other cases additional funds will be needed to complete the various study activities required to develop a comprehensive plan for the State school support program. The Committee's proposal would result in the continuation of these research activities on a limited basis in those States where additional work is needed. The intent of the Committee's action is to raise the level of expertise of State school finance fiscal planners and enhance the sharing of information through the training and dissemination activities to be conducted by the Commissioner.

To help fulfill the same goal, the Commissioner also would be authorized to designate a unit within OE to serve as a national dissemination center on the previous and ongoing research efforts that the States have made to bring about greater equalization, and to conduct a series of training sessions to assist State personnel in their efforts to improve the financing systems for elementary and secondary schools.

Even though the bill provides that the three major activities are to be conducted by three separate agencies within the Education Division, the Committee has provided that the Assistant Secretary will take whatever action is necessary to assure coordination among the three activities and to prevent redundance in research and data gathering efforts.

PART B—PAPERWORK PROBLEMS

OVERVIEW

The enormous amount of paperwork involved in administering Federal education programs has become a major source of complaints from State and local participants in Federal programs. In the Education Amendments of 1976, Congress took some initial steps to control this paperwork burden by requiring the National Center for Education Statistics to coordinate the collection of information within the Education Division of the Department of HEW.

Despite these efforts, hearings conducted by the Committee revealed that paperwork in Federal education programs continues to divert great amounts of staff time at all levels and threatens to harm the effectiveness of Federal aid to education. Data collection activities in the Education Division alone generate an estimated burden of 1.2 million man-hours. States receive 135 to 140 Federal forms annually with hundreds of items to be collected from each school. One State superintendent estimates that 20,000 man-hours are consumed yearly by his staff alone in reporting to the Office of Education.

Recipients of Federal education funds seem particularly disturbed that this burden is so out of proportion to the level of funding provided by the Federal government. One State superintendent testified that Federal education programs are responsible for 84 percent of the data burden in that State, although the Federal government provides only 7 percent of the State's total funds for education.

The Committee recognizes the Federal government's responsibility to collect adequate data to learn whether program objectives are being met and whether funds are being used in ways consistent with the law. As the number of Federal programs and appropriations have grown several-fold in the past decade, so have Federal requirements. The above-mentioned statistics on staff hours consumed in data activities, overwhelming though they may seem, must be weighed against the need for reliable information on which to base public policy, the benefits gained through Federal aid, and the proportions these activities constitute of total staff time.

Nevertheless, the Committee has uncovered instances of inefficient, duplicative and useless Federal data collection which the Committee feels can be remedied without harming the integrity of Federal data collection.

(1) Lack of Coordination

For administration of its 120 programs, the U.S. Office of Education generates about 90 percent of the total data burden attributable to the elementary and secondary education programs in the Department of Health, Education, and Welfare. However, responsibilities for collection of specific program data is spread throughout the many bureaus, divisions and offices of OE. In addition, information required to evaluate the programs is collected separately within OE by the Office of Planning, Budget and Evaluation.

Other agencies in HEW but not in the Education Division also make large demands for information from educational institutions. According to the Office of Management and Budget, such agencies (exclusive of the Office for Civil Rights) have had data instruments approved by OMB which required over 800,000 annual man-hours to complete. Agencies outside of HEW have also been requiring enormous amounts of data from the education field. The Department of Labor, for instance, has requested data which requires 5 million annual man-hours to complete, and the Veterans Administration has requested data requiring over 1 million man-hours to complete.

The lack of a central coordinating agency or of an automated indexing system for this entire structure results in the same data being collected repeatedly. Duplication of items cannot be readily checked, and existing items may not be easily retrieved. For example, the Commission on Federal Paperwork found instances where the Labor Department, HEW and IRS had requested identical materials from an educational institution for the purposes of auditing equal opportunity programs.

A second problem stemming from lack of coordination is that inconsistent terminology, definitions and classifications lead to data being corrected in slightly different forms. To the respondent, the Federal government is unitary and its agencies are expected to make common and multiple uses of information in the interest of efficiency and economy," concluded the Commission on Federal Paperwork. Admittedly, each Federal agency must tailor its requests to its specific objectives. However, there are many instances where standardized definitions such as those developed by the National Center for Education Statistics could have been used but were not.

For these reasons, the Committee has adopted an amendment designating the National Center for Education Statistics as the coordinating body for all data requests of agencies and institutions whose primary function is education or whenever data requests have as their primary purpose seeking information related to the management or the formulation of policy relating to Federal education programs. The Center is charged with developing standard definitions and terms, developing an automated indexing system for cataloguing data, and requiring agencies involved in data collection to submit a plan for their activities.

The Committee rcognizes that problems could arise from the NCES, an agency within HEW, being given the approval power over requests for information from other agencies both within HEW, and outside HEW. Therefore, the Committee has provided for two procedures which will hopefully avoid inter-agency tensions. First, NCES must notify the Office of Management and Budget of each data request it is reviewing within 10 days of the receipt of the request for review from another agency. Then, OMB is given the right to exercise its prerogative to have that data request reviewed directly by OMB if a significant data acquisition policy issue is involved. Second, a Federal Education Data Acquisition Council is established to advise NCES on its duties, to review the policies and procedures of the data unit and to hear appeals from decisions if the head of an aggrieved agency seeks to make such an appeal. Since this council consists of members representing the public and the major agencies collecting and using education data, it is hoped that the council will bring into the decisionmaking process all the major parties involved from throughout the Federal government.

(2) Lack of adequate lead time

More than any other problem, witnesses complained that they are not given sufficient advance notice of data requests to properly gear up for their collection. Local and State educational agencies normally plan their annual data collection by the January preceding the start of the school year. Yet, often they are not informed of major Federal collections until shortly before or after the start of the school year. Witnesses repeatedly pointed to Office for Civil Rights forms 101 and 102, which were not provided until the start of the school year or later in 1974, 1975, and 1976.

Reasons for tardiness vary from delays in the Administration's approval process, to unrealistic Congressional due dates, to States failing to pass on notice to local agencies. The Committee bill, therefore, states that no information will be requested of any educational agency that has not been approved and publicly announced by January 1 preceding the start of the school year in which it is to be collected, unless there is an urgent need for the information or very unusual circumstances. Exempted from this requirement are special studies and research specifically mandated by law by the Congress.

(3) High costs and unrealistic data

The exact cost of Federal paperwork to educational institutions is difficult to gauge. Estimates such as those made by one superintendent of $9 million per year for a single State and its local agencies cannot begin to express the cost to school children when personnel time is eaten up in non-educational efforts. Generally, the Commission on Federal Paperwork found that information which is not readily retrievable may cost up to $3.50 per data item, per school. Other States say costs can range as high as $20 per item. And because the burden for some types of data gathering has shifted from the Federal level to the State level, even this may be conservative. One State superintendent stated that approximately 10 million items had to be collected from local districts in order for the State to present a summarized form of 1,000 items to the Federal government.

High costs alone are not sufficient reason to forego collection of necessary data. However, the costs have escalated to the point where they may be prohibiting the neediest districts from even applying for Federal funds. One local superintendent noted that paperwork required for the Indian Education Act would cost $6,000 to apply for an allocation of only $4,500. Some States say they will not apply for grants under $5,000 because they would lose money in the process.

In summary, the cost of the data must be weighed against the justification for having it. For this reason the Committee bill incorporates standards of effectiveness and costliness into the already prescribed standards of lack of redundancy and excessive detail. The Committee believes that all of these standards must be applied against data requests if truly justifiable requests are to be approved.

Toward this end, H.R. 15 also mandates that the data plans of each collecting agency must include a detailed justification of how the information to be collected will be used and an estimate of the manhours to complete and process the information. In addition, Federal funds are made available to help States develop or improve their own computer data systems.

These requirements could mean that the Federal government may no longer be able to justify acquisition of data which is merely "nice to know". By the same token, SEA's and LEA's may have to shoulder responsibility to collect significant information that had previously been unretrieved due to high costs.

(4) Lack of feedback

The costs of data are especially frustrating to respondents when they receive little or no feedback or feedback that is useless. In the past, publication of data has frequently been four years late or after plans have already been announced for a second survey. An HEW Region X survey found that one-third of Federal, State and local officials surveyed felt that HEW reports were useless.

Although the greatest use of data is perhaps made by the collecting agency itself, many other agencies and organizations, including respondents, could profit from the information if it were available in a timely fashion. Each month NCES receives approximately 1,000 requests for its educational data.

The Committee bill changes the Administrator of NCES with providing educational agencies and institutions with summaries of data collected insofar as practicable and to the extent permitted by confidentiality agreements.

(5) Lack of perspective

The Committee was surprised to learn from NCES that some small programs generate paperwork in far greater proportions than their appropriations seem to warrant. For example, one small program in the Office of Education consumes 4 percent of the total man-hours required to respond to Federal forms, yet its appropriation is only .1 percent of the total appropriations for all the relevant OE programs. By contrast, the largest Federal program, Title I, with an appropriation that is 36.8 percent of the total OE programs, requires 17.8 percent of the total man-hours. Even when one recognizes that certain types of small, discretionary programs may require more intensive administration and review than State-operated programs, some of the comparisons still seem disproportionate.

While the Committee hopes that some of the specific program amendments in other parts of the bill may reduce these disproportions, H.R. 15 also requires NCES to publish an annual listing of Education Division programs with the appropiration and data burdens for each program, and an annual listing of the data burden resulting from requests approved for the other Federal agencies within HEW and other departments. By making administrators aware of where their programs stand in the total data collection picture, the Committee feels certain that they will be encouraged to streamline requests wherever possible.

(6) Single year applications and plans

Nearly all the major Federal elementary and secondary education programs require submission of annual applications or plans. Information regarding a recipient's intended use of funds is crucial for further decisions about approval, funding levels, and program monitoring. However, some annual applications and plans have grown into extremely lengthy documents including information that is not only routine and unchanging for that particular program but which is also repeated in other program applications. According to one State educator, State plans after the initial one "contain about 90 percent of the material that is in the original plan with certain amendments thereto".

While the Committee recognizes the Federal government's need to keep abreast of any changes in a recipient's status or intentions after the first year of funding, an annual update containing amendments to the application or plan should in most cases be sufficient. Therefore, H.R. 15 contains the following provisions regarding applications and plans:

—authorizes the Commissioner to provide for two year applications with annual amendments for any program;
—authorizes the Commissioner to require, insofar as possible, common applications for formula grant programs, for State discretinary programs, and for Federal discretionary programs; and
—includes amendments in other sections of the bill to require multiyear applications and plans such as for Title I, Title IV, the bilingual education program and many others.

PART C—GENERAL ADMINISTRATIVE PROVISIONS

The Committee bill contains a number of amendments to the General Education Provisions Act regarding various administrative and technical provisions of law affecting Federal education programs. These amendments are described in the following sections.

(1) "Tydings Amendment"

The Committee bill contains an amendment which makes permanent the so-called "Tydings Amendment." That provision permits States and local school districts to carry over unspent funds from one fiscal year to the next.

Another amendment contained in the bill clarifies that the legal requirements which apply to the funds carried over to the succeeding fiscal year are those which are applicable in that succeeding year. This latter amendment was included so that States would not be operating under two completely different sets of rules for funds they are spending on the same program within a fiscal year. Its adoption, however, is not meant to encourage the States in any way to avoid carrying out Federal legislative requirements, such as a percentage set-aside of funds.

(2) Maintenance of Effort

The cornerstone of ESEA and similar Federal aid-to-education programs is the premise that Federal aid must supplement—not supplant—State and local expenditures. The historic intent is that Federal dollars must represent an additional effort for the target children; thus, State and local education program expenditures must be maintained at previous levels.

Present law provides for two very complex procedures to be used in determining whether a State or local school district is to be permitted a waiver of these maintenance of effort requirements under various Federal programs. The Committee bill simplifies this procedure by deleting what is now called the "very exceptional circumstances" procedure and by making applicable only the "exceptional circumstances" procedure.

This amendment means that the Commissioner is authorized to waive these requirements for a single fiscal year in cases of exceptional or unforeseen circumstances such as a natural disaster or a precipitous and unforeseen decline in the financial resources of the State or local eduactional agency. An example of the latter would be a major industrial or commercial facility leaving the area, thus diminishing the revenue base. However, the decision of a State or local legislature to slash the education budget would not in and of itself constitute a valid decrease of financial resources since this is a voluntary and controllable act: such a reduction is, in effect, a refusal to use revenue resources which are available. Finally, a waiver of maintenance of effort may not be taken into account when computing the fiscal effort in subsequent years. Otherwise, the reduced amount would be a base year in perpetuity. The General Accounting Office has found, however, that HEW does little, if any auditing of maintenance of effort at State and local levels, and that consequently the existence of such effort and the extent of misreporting of data is quite simply not known. The Committee urges HEW, in the strongest terms possible, to begin to enforce these provisions of law. These requirements undergird Federal aid to education, and there is no excuse for not securing their enforcement.

Second, the GAO found that OE is applying the so-called 95 percent rule, which allows States and local districts to maintain effort for

95 percent or more of the base year's expenditures on either a per student or an aggregate basis, to ESEA Title I and to the Vocational Education Act, although there is no legislation specifying a 95 percent rule for either of these programs. Specifically, the regulations for the vocational education program allow a 5 percent reduction in each fiscal year based on the previous year. Thus, over a period of 5 years, a local educational agency would be permited to reduce its expenditures by 22.6%. This could also happen under Title I in practice, although proposed regulations have not been issued for maintenance of effort for this program.

The Committee states that it believes a "declining" maintenance of effort provision as provided in the vocational education regulations violates the Congressional intention in enacting the Vocational Education Act, and therefore HEW is urged to revise those regulations. The Committee also urges HEW to review the legality of applying the 95 percent rule to that Act and to Title I. If HEW feels such a provision is necessary, it should ask Congress for its enactment.

(3) Confidentiality Rules

The Committee bill contains a provision directing the Secretary of HEW to formulate rules of confidentiality for all Federal education programs within the Department within 90 days of the enactment of these amendments. Presently, some confusion exists in the Department over the precise applicability of the Freedom of Information Act, with the effect being that information supplied in some research studies is being released although this information was provided to HEW agencies in a confidential manner. These newly required rules will seek to strike a balance between the public's right to information and the agency's need to assure confidentiality in order to gain the cooperation of respondents in research and evaluation activities.

(4) Publishing Consultation

The Committee bill also contains an amendment requiring the Commissioner and the Director of the National Instiute of Education to encourage applicants for curriculum development contracts and grants to consult with private publishers in order to make the products of these contracts and grants more marketable when completed. In the past, OE and NIE have supported some activities which have not been accepted for publication by private companies. This amendment is meant to avoid that problem in the future.

(5) State and Local Administration

The Committee bill establishes a new subpart 3 of part C of GEPA to set forth clarified and simplified provisions relating to administration of certain programs by State and local agencies. In particular, these sections provide clear authority for State agencies and boards that are responsible for administering State operated Federal programs, to monitor and enforce the requirements of Federal law, including site visits, audits, and investigation and resolution of complaints. They also establish procedural mechanisms for use by States in their enforcement of legal requirements, including authority to withhold approval of local applications and to withhold or suspend payments to local agencies.

The Committee bill also proposes to establish a single State application procedure to cover the participation by States in titles I and IV of ESEA, the Adult Education, and part B of the Education of the Handicapped Act, part A of the Vocational Education Act, and the Library Services and Construction Act. The Commissioner could designate additional State-operated programs to be covered by this application. Under this procedure, those assurances and requirements that are generally common to all State-operated programs would be contained in a single application, filed by the State one time, and updated only as required by changes in Federal or State law.

The bill also contains procedures for a single local educational agency application. This application follows the general format of the single State application discussed above, and would require local educational agencies to submit to the appropriate State agency or board a one-time application that would contain all the generalizable assurances relating to their participation in Federal programs that are administered by the States.

(6) Federal Enforcement

The Committee bill also establishes a new part E of GEPA which consolidates most of the provisions relating to enforcement and judicial review in existing State-operated programs, and which establishes a comprehensive system for enforcement by the Commissioner of the requirements relating to education programs.

These amendments also propose the establishment of an Education Appeal Board, which would build upon the existing title I Audit Hearing Board, but which would be expanded to provide a due process hearing procedure for adverse actions taken against recipients by the Office of Education under most major Federal education programs. (Student assistance programs covered by the limitations, suspension, and termination regulations under section 497A of the Higher Education Act of 1965 would not be affected by these new provisions.) The proceedings over which the board would have jurisdiction include audit determinations against State or local educational agencies under certain State-operated programs, withholding proceedings against recipients (other than under student assistance programs), and cease and desist orders. There is also provided new authority for the Commissioner, subject to the review of the Education Appeal Board, to issue cease and desist orders where he finds that an agency is engaging in a practice under an applicable program that is not authorized by law. Such a proceeding would permit a dispute to be readily litigated before the Board and an appropriate order to be issued to correct any offending practice. The order could be enforced either by withholding any portion of the amount payable to a recipient, or by the facts being certified to the Attorney General who could bring an appropriate proceeding for enforcement of the order.

Neither the provisions requiring a single State application nor those requiring a single local application is meant to supersede automatically provisions in other laws requiring the same things. Each of those other laws will have to be amended in order to conform them to these provisions. The Committee bill has begun this task with the programs being amended by this bill, but other laws such as the Vocational Education Act and the Education of All Handicapped Children's Act will have to be amended separately later.

Furthermore, nothing in these new provisions should be interpreted as radically changing the present relationship of the Federal government to the States or to local school districts. These amendments, rather, are meant merely to lay out responsibilities more clearly so that no confusion exists about each governmental level's respective duties.

It must always be remembered that education is primarily the responsibility of States. The Congress has enacted measures to stimulate and encourage the development of programs to improve achievement of students in targeted areas of particular national concern. And States are authorized and encouraged to organize, coordinate, and supervise State and Federal programs within the State in a way that will best carry out the intent of the various statutes enacted by Congress. But, nothing in any of these statutes should be construed to discourage coordination of State and Federal programs.

For instance, if a State educational agency chooses to audit all Federally-assisted programs within a school district at one time in the year, no Federal agency should have the power to require without a compelling reason that each Federally-assisted program be audited separately. A State should be able to organize, coordinate, and supervise these Federal programs in as reasonably unrestricted a manner as possible.

(7) Census Information

The Committee bill contains an amendment directing the Secretary of Commerce to tabulate the 1980 census in such a fashion as to make available by school district family income data, parental education data, and certain cohorts of children so that Title I allocations can be made on a more reliable statistical basis.

(8) "Buckley Amendment"

The Committee considered, but did not adopt, an amendment to the Family Educational Rights and Privacy Act of 1974. The proposed amendment would have expanded the exception to the requirement for prior parental consent to the release of records found in section 438(b)(1)(E). This subparagraph allows for the release of educational records to state and local authorities as required to be reported pursuant to State statutes adopted prior to November 19, 1974.

Since the passage of FERPA, there has been a question as to whether education personnel who report cases of child abuse without prior parental consent as required by FERPA will thereby violate the Act and jeopardize their schools' Federal funding. The Education Commission of the States Advisory Committee on Child Abuse and Neglect raised this issue with HEW, analyzed the statute and concluded that several sections of the Act allowed reporting in conformance with State laws without violating the Act.

This issue was also raised by ECS with the Fair Information Practices Staff and the National Center on Child Abuse and Neglect. In an exchange of letters within HEW and between HEW and ECS, it was concluded and agreed that the following parts of the Act and regulations issued pursuant thereto allow for the reporting of child abuse pursuant to state statutes without incurring any liability under the Act:

(a) Section 438(b)(1)(E) of the Act and section 99.31(a)(5) of the regulations specifically allow for the release of education records to state and local authorities to whom information is specifically required to be reported or disclosed pursuant to state statutes adopted prior to November 19, 1974.

(b) Section 438(b)(1)(I) of the Act and section 99.36 of the regulation provide that personally identifiable information from education reecords may be released to appropriate parties if knowledge of such information is necessary to protect the health and safety of the student and others. HEW has agreed that child abuse and neglect situations generally fall within this emergency exception if the state definition of child abuse and neglect is limited to situations in which the child's health or safety is endangered.

(c) Section 438(b)(2)(B) of the Act and section 99.31(a)(9) of the regulations provide that a school may release personally identifiable information from education records in order to comply with a judicial order or lawfully issued subpoena.

(d) HEW maintains that many reports of suspected incidents of child abuse and neglect are made on the basis of the teacher's personal knowledge and observation which do not constitute education records. Since FERPA governs the release of information from education records, such reports are not addressed. However, the Committee recognizes that many state reporting statutes require oral reports to be reduced to writing and thereby constitute education records.

The Committee is highly supportive of the state's efforts to detect, prevent and protect abused and neglected children. In fact, in the first session of this Congress, this Committee recommended the reauthorization of the Child Abuse Prevention and Treatment Act. However, the Committee is also concerned that amendment to the existing exceptions in the Act will establish a harmful precedent. Therefore, the Committee declines to amend section 438(b)(1)(E) at this time.

The Committee does so with the explicit understanding with the Fair Information Practices Staff that a good faith report of a suspected incident of child abuse or neglect pursuant to a State statute shall *ipso facto* constitute an emergency under section 438(b)(1)(I) and section 99.36(b) of the regulations and the judgment of education personnel making such a report shall not be subject to a debate as to whether or not the emergency existed at the time a decision was required to be made.

(9) Treatment of U.S. Territories

The Committee recognizes that the Territories of the United States—Guam, the Virgin Islands, American Samoa, the Trust Territory of the Pacific Islands, and the Commonwealth of the Northern Marianas—often have problems which require solutions different from those for the States, especially within the framework of any national education legislation.

These Territories are small in population, some distance from the mainland, and limited in size. They have smaller resource pools, and great cultural differences which separate them not only from the States, but from each other. It is for these reasons they are not always analogous to mainland jurisdictions when national solutions are suggested even when strict size and population may make them similar statistically.

Their relationship with the Federal government also plays a part in treatment under national education legislation. For unlike a small municipal unit, like a city or county, there is no State to turn to for aid and assistance when problems occur. There is only the Federal government to turn to should the need arise. Thus, the Committee believes that special sensitivity is needed on the part of the Federal government when enacting legislation or implementing laws where the United States Territories are concerned. Without this special sensitivity, legislation designed to solve problems in the States may become a hindrance to the elimination of those problems in the Territories.

One area where the Committee has moved to insure effective implementation of Federal law is by providing a waiver of Federal regulations under the Elementary and Secondary Education Act which the Commissioner of Education deems impractical or inappropriate for these jurisdictions. It is understood that this is a specialized application of this concept, and in no way supersedes the waiver provisions of title V of P.L. 95–134. P.L. 95–134 provides the means for the waiving of matching requirements as well as the consolidation of grant applications to ease the administrative burden of the Territories. Nevertheless, the Committee strongly urges the Commissioner of Education to make full use of his administrative discretion under this section of ESEA and waive those national regulations for the Territories which might actually prevent the implementation of the intent of Congress.

The Committee also urges that in waiving regulations the Commissioner consult regularly with the Territories. Finally, the Committee urges that this section not be interpreted as bestowing authority upon the Commissioner to replace one set of restrictive regulations with another. Rather, the Committee believes this provision gives authority to the Commissioner to enact regulations which fit the particular needs of the Territories.

A second area where the Committee has demonstrated its sensitivity to needs of the U.S. Territories is by providing for a special Territorial Teacher Training program. The purpose of the program is twofold. These funds can be used by local governments, or other qualified organizations, to provide training to local teachers in order to upgrade their credentials and to lessen the Territorial dependence on outside educators. Secondly, the program can be used to bring outside educators to the different Territories, if such expertise is necessary, so that they may train local teachers and the expertise be transferred to the local Territory.

It is not only the experiences of "outside" teachers which can be useful to the Territories, but also all sorts of other expertise. Therefore, the Committee urges that greater use be made of the Inter-Governmental Personnel Act to bring Federal expertise to the Territories as well to bring local personnel to Washington.

The Committee is also cognizant of the fact that far too often the Territories are not made aware of Federal monies or newly proposed regulations. It is urged that the Commissioner's Office, as well as the regional offices, take special care to insure that these Territories are kept abreast of any funding opportunities and regulation changes. The Committee suggests that written confirmation regarding receipt of regulation changes be received from the Territories prior to any implementation. More than that, however, the Committee urges that the Territories be given input into the regulations which will ultimately guide the application of the program.

It is the overall opinion of this Committee that, given the differences which exist between the Territories and the States, Federal education legislation must be flexible enough to provide solutions both now and in the future. The Committee hopes that this bill will begin to provide that flexibility.

OVERSIGHT

No findings or recommendations concerning oversight of the program authorized in H.R. 15 have been received by the Committee from the Committee on Government Operations. The Subcommittee on Elementary, Secondary, and Vocational Education conducted 75 days of hearings in 1977 and 1978 on H.R. 15 which were also oversight hearings on the programs amended by this bill. The Committee's oversight findings are discussed in the various sections of this report dealing with problems in the existing law. The amendments contained in H.R. 15 are a result of the Subcommittee's hearings and oversight.

COST ESTIMATES

The Congressional Budget Office has provided the following estimates of the costs which will be involved in implementing this legislation. The Committee concurs in these estimates and adopts them in compliance with clause 7 of Rule XIII. No cost estimates have been received from the Department of HEW.

The Congressional Budget Office letter follows:

Congressional Budget Office,
U.S. Congress,
Washington, D.C., May 4, 1978.

Hon. Carl D. Perkins,
Chairman, Committee on Education and Labor, U.S. House of Representatives, Washington, D.C.

Dear Mr. Chairman: Pursuant to section 403 of the Congressional Budget Act of 1974, the Congressional Budget Office has prepared the attached cost estimate for H.R. 15, the Education Amendments of 1978.

Should the committee so desire, we would be pleased to provide further details on the attached cost estimate.

Sincerely,

Robert A. Levine,
Deputy Director.

CONGRESSIONAL BUDGET OFFICE—COST ESTIMATE

May 3, 1978.

1. Bill number: H.R. 15.

2. Bill title: Education Amendments of 1978.

3. Bill status: As ordered reported from the House Education and Labor Committee, April 5, 1978.

4. Bill purpose: The purpose of this bill is to extend and amend the expiring elementary and secondary education programs. These programs are currently authorized under the Elementary and Secondary Education Act of 1965 (ESEA), the Emergency School Aid Act, Public Law 81-815 and Public Law 81-875 (Impact Aid), and the Adult Education Act, as well as several other related education acts. This bill is subject to subsequent appropriation action.

5. Cost estimate:

[In millions of dollars]

	Fiscal year—				
	1979	1980	1981	1982	1983
Authorization levels:					
Title I: Grants for the disadvantaged	6,295	6,735	7,214	7,751	400
Title II: School Library Resources[1]	(220)	(220)	(220)	(220)	
Title III: Supplementary Education Centers and Services[1]	(605)	(605)	(605)	(605)	
Title IV: Libraries, Learning Resources, Educational Innovation and Support	934 [1](136)	934 [1](136)	934 [1](136)	934 [1](136)	81
Title V: Grants to Strengthen State Departments of Education[1]	(150)	(150)	(150)	(150)	
Title VI: Miscellaneous Educational Programs	318	425	453	445	418
Title VII: Bilingual Education	242	299	356	411	466
Title VIII: General Provisions	10	25	25	25	25
Title IX: Emergency School Aid		300	300	300	300
Title X: Impact Aid	1,462	1,571	1,683	1,804	1,938
Title CI: Indian Education	764	821	880	944	1,014
Title XII: Adult Education	226	227	228	228	15
Title XIII: Administrative Provisions	54	74	99	99	99
Title XIV: Effective Dates	NC	NC	NC	NC	NC
Total, authorization levels	10,305	11,411	12,172	12,941	4,756
Projected costs:					
Title I: Grants for the Disadvantaged	466	4,401	6,327	7,085	7,019
Title II: School Library Resources[1]	(16)	(153)	(209)	(220)	(204)
Title III: Supplementary Education Centers and Services[1]	(45)	(420)	(575)	(605)	(560)
Title IV: Libraries, Learning Resources, Educational Innovation and Support	127 [1](10)	566 [1](94)	831 [1](129)	934 [1](136)	854 [1](126)
Title V: Grants to Strengthen State Departments of Education[1]	(11)	(104)	(143)	(150)	(139)
Title VI: Miscellaneous Educational Programs	207	372	438	446	428
Title VII: Bilingual Education		194	288	345	400
Title VIII: General Provisions	7	19	24	25	25
Title IX: Emergency School Aid		51	258	294	300
Title X: Impact Aid	950	1,460	1,678	1,756	1,885
Title XI: Indian Education	199	740	834	893	957
Title XII: Adult Education	17	157	216	228	212
Title XIII: Administrative Provisions	35	64	89	98	99
Title XIV: Effective Dates	NC	NC	NC	NC	NC
Total, projected costs	2,006	8,024	10,943	12,104	12,178

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[1] Titles II, III, V, and provisions under sec. 406 of title IV of H.R. 15 are only authorized to be appropriated if title IV, pt. B and pt. C of the ESEA, are not appropriated. Since title IV of the ESEA of 1965 has been funded in recent years, this cost estimate assumed it would be funded in the future. Thus, the costs associated with titles II, III, V, and sec. 406 of title IV are not added into the totals for this bill.

Note totals may not add due to rounding.

The costs of this bill fall within budget function 500.

6. Basis for estimate: The cost estimate for H.R. 15 reflects both the new and extended authorization levels for the elementary and secondary education programs. For those provisions where specific authorizations have been stated in the bill, the cost estimate reflects the stated maximum levels. For those programs authorized at such sums as may be necesary to fulfill the program purpose, CBO has estimated the maximum authorization levels.

Although H.R. 15 does not address the issue of forward or advance funding in this reauthorization bill, CBO has assumed, for the purposes of this cost estimate, that all programs presently forward or advance funding under Part B of the General Education Provisions Act will continue to be so in the future. Therefore, authorized program levels for the fiscal year ending September 30, 1980 for Titles I, II, III, IV, V, and XII, will be assumed appropriated in fiscal year 1979. Similarly, the projected total costs reflect the current funding and spending patterns. The specific assumptions for each title are detailed below.

The estimate assumes that the stated and estimated maximum authorization levels are fully appropriated.

TITLE I

Title I includes grants of financial assistance to local educational agencies (LEAs) as well as grants to state agencies to meet the educational needs of educationally disadvantaged children.

The grants to LEAs are based on a stated maximum entitlement formula authorized in the bill at such sums as may be necessary to fund the grants fully. Each LEA is entitled to 40 percent of the states per pupil expenditure times the sum of all children in the school disstrict who are from low income families as defined by the 1970 Census or who are from AFDC families not included in the definition of poverty for the 1970 Census, as well as the neglected, delinquent, and foster children residing in institutions supported by public funds.

The National Center for Education Statistics (NCES) has estimated that the national total for the number of children in the above categories in the fall of 1978 would be approximately 9.1 million. This estimate is expected to change only marginally over the life of this bill. The estimated average per pupil expenditure used for the fiscal year 1978 appropriation is $1,308.

This figure has been inflated by the CBO projection of increases in the elementary and secondary school cost index in order to determine the maximum entitlement levels for the grants.

The entitlements under Title I are subject to a ratable reduction if not fully appropriated. The new ratable reduction formula for distributing the appropriated funds does not change the maximum authorization levels, but would impact on the state allocation of those funds.

The state agency grants are determined in a similar manner as the grants to LEAs but are based on the full time equivalent number of migrant children in a state as well as the number of handicapped, juvenile delinquents, and neglected children residing in state operated facilities or adult correctional centers. For the fall of 1978 this population is estimated by NCES to be approximately 600 thousand. Based on recent trends, CBO estimates this population will grow by 3 to 5 percent annually.

The incentive grant program would allow a state to receive a federal grant of up to 50 percent of the dollar amount of state funds expended for compensatory education programs during the preceding year. Little data are available on the state programs. However, a 1976 HEW survey showed that about 15 states had some type of compensatory education program, totaling about $350 million. Based on the assumption that few additional states would opt to fund their own programs in the near future, the incentive grants were estimated to cost $200 million annually.

The urban concentration grants were estimated at the maximum authorization level stated in the bill of $400 million in fiscal year 1979. This level was assumed to be the maximum level over the projection period. Since this is a new program authorized for five years, it was not assumed to be advance funded. However, due to time lags in writing regulations and approving applications, it was assumed that the fiscal year 1979 funds would not be spent until 1980.

Grants to the Territories and for state administrative expenses were assumed to be the maximum allowable under the provisions of this bill.

The projected total costs for Title I reflect the advance funding nature of the program—7.4 percent the first year, 62 percent the second, 25.7 percent the third, and the remainder in the fourth year.

TITLES II, III, AND V

The authorization levels for Titles II, III, and V are those stated in the bill. These three titles encompass several categorically grant programs under the ESEA for library service programs, educational centers and services, and programs to strengthen local education agencies. If Title IVC of the ESEA (which is reauthorized under Title IV of H.R. 15) is funded at least at the fiscal year 1978 appropriation level, then these categorical grants are not authorized to be appropriated. Title IVC is a consolidated of all the categorical grants included under the aforementioned titles.

Since these titles have not been funded in recent years due to the funding of Title IVC, their authorization levels are shown in brackets in the cost estimate and are not included in the bill totals. The projected net costs associated with these titles reflect the advance funding spending pattern of Title IVC grants.

TITLE IV

The authorization level for Title IV grants for library resources, innovation programs, and guidance counseling are those stated in the bill. Since the new grants for Part C guidance counseling are authorized for five years, it was not assumed to be advance funded. However, due to time lags in approving applications, it was assumed that the fiscal year 1979 funds would not be spent until 1980. The spendout rates associated with the projected total cost are the same as the Title I advance funded programs.

The extension of authorization for the National Defense Education grants under this title are only authorized if Title IVB of the ESEA is not funded. Since this cost estimate assumes full funding of Title IVB, these grants are shown in brackets in the estimate and are not added into the totals.

Title VI contains miscellaneous new educational grant programs. The authorization levels are those stated in the bill. For the Special Project "B" grants in Section 632, CBO has estimated the Congressional intent to be approximately $40 million annually. For the Section 687 Special Project in Biomedical Sciences it has been assumed that the fiscal year 1979 maximum authorization level of $40 million will be the authorization level for the remaining four years.

The spendout rates applied to these new programs are the rates for similar current year funded grant programs—65 percent the first year, 30 percent the second, and the remainder the third year.

TITLE VII

The authorization levels for bilingual education grants are those stated in the bill. CBO has assumed the outyear estimates for the bilingual training grants to be the same as the fiscal year 1981 level. It was also assumed the outyear authorization amounts for support services would be the same level as stated for fiscal year 1979.

Bilingual education programs are forward funded and thus all of the projected costs are in the outyears, 80 percent the second year, and the remainder in the third year.

TITLE VIII

The authorization level for the education proficiency standard grants under the general provisions is estimated by CBO to be approximately $25 million annually. The repeal of the $10 million consumer education grants only effects fiscal year 1979. The spendout rate associated with this title is similar to the current year fund programs under Title VI.

TITLE IX

The authorization levels for state grants under the emergency school aid program are those stated in the bill. Since it is legislative intent to fund the program at approximately the fiscal year 1979 budget request levels, CBO has assumed that the special grants under this bill would be approximately $135 million annually. Compensatory services were assumed to be about $10 million annually, which includes the stated $7.3 million.

This program has authorization through fiscal year 1979. Therefore, the impact of this legislation will not occur until fiscal year 1980. The Administration's spendout rates for this program of 17 percent the first year, 69 percent the second, 12 percent the third, and the remainder the fourth year, have been used to project total costs.

TITLE X

Title X reauthorizes the impact aid program which provides financial assistance to school districts in areas affected by federal activities.

The program is authorized at such sums as may be necessary to fully fund the three tiers. The cost estimate for the maximum authorization level of tiers I, II, and III of the basic grants was estimated by the Congressional Research Service (CRS) to be $1.3 billion in fiscal year 1979. This estimate was inflated by the CBO projection of the increases in the elementary and secondary education cost index to obtain the out year cost impact of full funding.

Disaster grants were estimated by HEW to be approximately $15 million annually. It has been noted that there was a backlog of up to $500 million in construction grant applications. CBO, therefore, assumed $100 million authorized annually for construction grants.

The projected costs reflect the present spending pattern of this program of 65 percent the first year, 30 percent the second, and the remainder in the third year.

TITLE XI

This title extends, amends, and reauthorizes Indian education programs. Part "A" grants for Impact Aid have been estimated by CRS to be approximately $21 million in fiscal year 1979. CBO has projected the out year costs based on the increases in the elementary and secondary education cost index.

The Part "B" programs under the Johnson-O'Malley Act have permanent authorizations under the Syder Act and, therefore, add no additional authorizations to this bill. However, if the Appropriations Committee fully funded the new entitlement provisions, it would cost an additional $200 million over the present levels.

The Part "C" Indian education program authorizations are those stated in the bill. Full funding of the Indian education grants has been estimated to cost about $625 million in fiscal year 1979. The out year costs have been estimated based on the CBO projection of increases in the cost index for elementary and secondary education.

The spendout rates associated with the projected total costs are those used by the Department of HEW for the Indian education programs—26 percent the first year, 69 percent the second, and the remainder in the third year.

TITLE XII

The authorization levels for adult education are those stated in the bill. Since the new elderly education grants are authorized for five years, it was not assumed to be advance funded. However, due to time lags in approving applications, it was assumed that the fiscal year 1979 funds would not be spent until 1980.

The spendout rates for the projected total costs reflect the rates of other advance funded programs under Title I.

TITLE XIII

The authorization levels for Title XIII are those stated in the bill. The spendout rate is similar to the other current year funded programs.

TITLE XIV

The effective date of this bill is October 1, 1978.

7. Estimate comparison: None.

8. Previous CBO estimate: None.
9. Estimate prepared by: Deborah Kalcevic.
10. Estimate approved by:

C. G. Nucklos
(James L. Blum, Assistant Director, Budget Analysis).

INFLATIONARY IMPACT

The Congressional Budget Office estimates that the costs of elementary and secondary education are increasing at a faster pace than the overall rate of inflation. Between fiscal years 1979 and 1982, CBO projects that the costs of elementary and secondary education will increase by 25.4%. The total authorization levels for the programs in H.R. 15, as reflected in the preceding letter from CBO, increases by 25.6% during this same period.

On a year by year basis, the increases in the total authorization level in H.R. 15 and the projected increases in the costs of elementary and secondary education compare as follows:

	Increase in authorizations in H.R. 15 (percent)	Increase in costs of elementary and secondary education (percent)
Fiscal year:[1]		
1979-80	10.7	8.8
1980-81	6.6	9.1
1981-82	6.3	9.8
1979-82	25.6	25.4

[1] The table does not compare the fiscal year 1983 authorization level in H.R. 15 with the fiscal year 1982 level even though the bill extends these programs through fiscal year 1983, because several of the programs are advance funded, meaning that funds authorized for the advance funded programs in fiscal year 1983 are for use in fiscal year 1984.

The committee therefore finds that the inflationary impact of H.R. 15 is not significant. In addition, the legislation will undoubtedly have a beneficial impact in later years on the social and economic well-being of the millions of chidren who will receive an improved education through the programs authorized in the bill.

SECTION-BY-SECTION ANALYSIS

TITLE I—AMENDMENT TO TITLE I OF THE ELEMENTARY AND SECONDARY EDUCATION ACT OF 1965

Section 101. Revisions to Title I of the Elementary and Secondary Education Act

Section 101 of H.R. 15 contains a complete rewrite of Title I of the Elementary and Secondary Education Act. The bill preserves the basic Congressional policy contained in the existing statute since its inception in 1965: to provide supplemental financial assistance to local educational agencies to expand and improve programs which contribute particularly to meeting the special educational needs of educationally deprived children residing in low-income areas. The major provisions contained in the bill: (1) clarify and logically structure the present requirements; (2) provide an incentive for states to establish and enact state compensatory education programs; (3) provide additional funds for school districts in counties having unusually high concentrations of children from low-income families; (4) provide additional flexibility to the Commissioner, State educational agencies, and local educational agencies; (5) increase the level of pre-expenditure control by the Commissioner and State educational agencies so that problems can be detected before they adversely affect programs; and (6) insure systematic methods for the distribution of title I funds by local educational agencies among project areas. H.R. 15 reorganizes Title I into seven parts: Part A—Programs Operated by Local Educational Agencies; Part B—Programs Operated by State Agencies: Part C—State Administration of Programs and Projects Assisted Under this Title; Part D—Federal Administration of Programs and Projects Assisted Under this Title; Part E—Payments; and Part F—General Provisions.

Set forth below is a section-by-section description of Title I, as reorganized and amended. The section references in the description are to the new sections of the statute. References to corresponding sections in existing law are also included.

New Section 1. Declaration of Policy

New section 1 retains the statement of policy contained in Section 101 of existing law that Title I funds are intended to assist local educational agencies in meeting the special educational needs of educationally deprived children residing in low-income areas. A new sentence has been added to clarify that Title I funds are also designed to meet the special needs of children of certain migrant parents, of Indian children, and of handicapped and neglected or delinquent children.

New Section 2. Duration of Assistance

New section 2 (section 102 of existing law) extends the period during which payments may be made under this title to September 30, 1983.

PART A—PROGRAMS OPERATED BY LOCAL EDUCATIONAL AGENCIES

New Section 11. Grants—Amounts and Eligibility

New section 11 (section 103 of existing law) generally retains the existing formula for allocating funds under this title. The changes to the existing law are described below. First, provisions relating to payments for insular territories are amended to include the Northern Mariannas consistent with the recently concluded covenant with that jurisdiction, and the year for "hold-harmless" payments is updated from 1973 to 1976. Second, this section includes revisions to the existing law concerning grants to Puerto Rico to provide that the grant for which Puerto Rico will be eligible to receive under this section will be adjusted according to the percentage which the average per pupil expenditure in Puerto Rico is of the lowest average per pupil expenditure in any of the fifty states.

Third, a new provision is included permitting the Commissioner to grant authority for one year periods to States to make direct allocations to school districts if the exact same formula factors are used and if there is an appeal process. Fourth, a new provision is included distributing appropriations in excess of those for fiscal 1979 according to the 1975 survey of income and education, except that any State which has more than a 25% decline in children according to this survey must receive funds on the basis of the most current valid data. Fifth, the provision limiting the count of AFDC children to two-thirds of such numbers is amended to remove this limitation beginning with fiscal 1980 appropriations.

New Section 12. Treatment of Earnings For Purposes of Aid to Families With Dependent Children

New section 12 is identical to Section 149 of existing law.

New Section 21. Incentive Grants.

New section 21 is designed to encourage states, through matching grants, to establish and expand their own compensatory education programs. Part B of existing law would be repealed. Under the amendment, states would be given grants of one Federal dollar for each two dollars of State funds which are used for compensatory education programs (a) which satisfy the criteria contained in the bill for purposes of qualifying for an exemption from the excess costs and comparability provision and (b) in which at least 50 percent of such state funds are used in areas having high concentrations of children from low-income families. The total amount of funds under this section for any fiscal year for each State would be limited to 10 per cent of the State's total entitlement under Section 11 for such fiscal year. Funds made available under this section to local educational agencies must be used for programs and projects undertaken pursuant to application submitted under section 31 and are subject to all other requirements in subpart 3 of Part A. If funds appropriated are insufficient to pay the total amounts which local educational agencies are entitled, the amount paid to such agencies must be ratably reduced.

New Section 22. Grants For Local Educational Agencies Located In Counties With Especially High Concentrations of Children From Low-Income Families

New section 22 creates a new provision which would provide additional funds to local educational agencies within counties with especially high concentrations of children from low-income families as determined under section 11(c).

New section 22 would provide that local educational agencies in a county would be eligible to receive additional grants if the number of children from low-income families aged 5–17 residing within the county exceeded 5,000 or 20 percent of the total number children aged 5–17 in such county. The amount appropriated would be allocated among counties in proportion to the amount by which the number of children from low-income families exceeds those threshold amounts. The provisions of this section would not apply to Guam, American Samoa, the Virgin Islands, the Northern Marianas, and the Trust Territory of the Pacific Islands. The funds made available under this section would be added to a local educational agency's allocation under section 11 and would be used for the same purposes.

New Section 31. Application

New section 31 (section 141(a) of existing law) requires applications to be submitted by the local educational agency once every three years rather than on an annual basis, as is presently required. Changes and amendments to the application must be submitted to the State educational agency for approval.

New Section 32. Designating School Attendance Areas

New section 32 consolidates provisions found in sections 141(a)(1)(A) and 141(a)(13) of existing law and codifies long-standing OE policies pertaining to the ranking of school attendance areas. In general, school districts must rank, from highest to lowest, areas in accordance with the incidence of children from low-income families. However, this amendment authorizes school districts to: (a) use enrollment data in certain schools in lieu of area residency, (b) continue eligibility for certain schools and areas for a three-year period even if they no longer satisfy the applicable eligibility requirements, (c) skip higher ranked schools where lower ranked schools have a substantially higher incidence of educational deprivation than the higher ranked schools, and (d) skip higher ranked schools receiving services of the same nature and scope from non-Federal sources as would otherwise have been provided under Title I.

New Section 33. Children To Be Served

New section 33 retains the requirement contained in section 141(a)(1)(A) of existing law that Title I funds be used to meet the needs of educationally deprived children and codifies long-standing OE policy concerning the targeting of children where there are insufficient funds to meet the needs of all such children. The amendment prescribes a general rule and provides for three exceptions to this general rule. In general, school districts must designate for participation in programs children who are in greatest need of assistance. However, the amendment authorizes school districts to: (a) continue eligibility for children who are no longer in greatest need of assistance but who are still educationally deprived, (b) continue eligibility for the remainder of the year for children who have been transferred in mid-year to ineligible areas and (c) skip greatest-need children receiving services of the same nature and scope from non-Federal sources as they would otherwise have received under Title I.

New Section 34. Requirements For Design and Implementation of Programs

New section 34 consolidates provisions found in existing law pertaining to program design and implementation (Section 141(a)(1), 141 (a)(1)(B), 141(a)(6), 141(a)(10), 141(a)(2), 141(a)(3)(A)), and adds six new provisions. The amendment pertaining to needs assessment specifies the two purposes of the provision. The first purpose is to generate data on which to base decisions concerning the designation of program participants. The second purpose is to generate data on which to base program design decisions, including the establishment of program objectives. The amendment pertaining to coordination specifies that school districts are expected to (a) avoid using Title I funds for services that could be provided from other sources and (b) consider suggestions and offers of assistance made by other concerned agencies. The bill also would require: that teachers be included in planning Title I programs; that parents of children participating in Title I programs be informed of the instructional goals of the program; and that local educational agencies consider including in their Title I programs components designed to sustain achievement gains beyond the school year in which a program is conducted.

New Section 35. Parental Involvement

New section 35 (section 141(a)(14) of existing law) retains the general requirement for involving parents in the planning, implementation, and evaluation of Title I programs. However, the amendment contains several changes. First, under the amendment not all project areas or schools would be required to establish a school level council; only those project areas and schools to which there is assigned at least one full-time equivalent staff member hired with Title I funds would be required to establish such a council. Second, teachers at a project school would be eligible for selection to a parent council even if he or she does not reside in the school district. Third, councils at project area schools, to which at least two full-time equivalent staff members paid for with Title I funds are assigned, must: (a) be composed of not less than five members, (b) meet at least four times per year at locations chosen by the council; and (c) have members elected for set terms. Fourth, applications must describe the program of training for parent council members and provide access to appropriate information.

New Section 36. Funds Allocation

New section 36 consolidates the various provisions contained in existing law ensuring that children participating in Title I programs and project areas receive their fair share of State and local funds. New section 36(a) contains the maintenance of effort provision found in section 143(c)(2) of Title I and section 431(b)(2) of the General Education Provisions Act. The new section 36(a) repeals the very exceptional circumstances exemption but retains, in modified form, the exceptional circumstances exemption. Under the amendment, where exceptional circumstances are found to exist, the Commissioner may waive, for one year only, the provision and reduce the school district's allocation in proportion to the amount expended by such agency which was less than the amount expended for the second preceding fiscal year.

New section 36(b) is the excess costs provision, contained in section 141(a)(1) of Title I and section 403(17) of P.L. 81-874, of existing law. The new provision retains the definition of the term; however, exemptions from the excess costs provision presently contained in the definition are now set forth in section 41.

New section 36(c) contains the supplement, not supplant, provision presently found in section 141(a)(3)(B). No changes have been made with respect to the distribution of regular state and local funds. New section 36(d) clarifies the application of the supplement, not supplant concept to state and local special funds, e.g., state compensatory funds. The new section 36(d) requires that educationally deprived children, in the aggregate, residing in areas and schools eligible for assistance under Title I, receive their fair share of special state and local funds.

New section 36(e) retains the comparability provision in section 141 (a)(3)(C) of existing law that each project area school receive services which are comparable to those provided to non-project area schools. Section 36(e) adds a new sentence which requires that school districts demonstrate comparability where all schools are designated project area schools.

New Section 37. Accountability

New section 37 consolidates the recordkeeping (section 141(a)(7) of existing law), reporting (section 141(a)(7) of existing law), and access to information (section 141(a)(8) of existing law) provisions into one section. The one change concerns the application of the recordkeeping requirement where a school district carries on a single compensatory education program funded from Title I and a state or local compensatory education program meeting all Title I requirements. Where the state or local program is identical to Title I and such funds are excluded in determining comparability, the local educational agency need not account for the Title I funds separately.

New Section 38. Complaint Resolution

New section 38 (no comparable provision in existing law) sets forth minimum standards respecting the establishment of complaint resolution procedures.

New Section 39. Individualized Plans

New section 39 retains the provision found in section 141(b) of existing law but deletes the reference to "written" plans.

New Section 40. Participation of Children Enrolled in Private Schools

New section 40 amends section 141A of existing law by (1) requiring that spending for educationally deprived nonpublic school children be equal, consistent with their numbers and educational needs, to spending for educationally deprived children attending public schools; (2) replacing the existing "on the record" hearing procedure with a streamlined "show cause" proceeding; (3) and providing a clear grant of authority to the Commissioner to withhold from the allocation to a State or local educational agency, funds necessary to pay the cost of services to children who attend nonpublic schools, pending resolution of a complaint or investigation concerning the failure to provide services to which those children are entitled.

New Section 41. Exclusion From Excess Costs and Comparability Provisions For Certain Special State and Local Programs

New section 41 clarifies the exclusions from the excess costs and comparability provisions permitted by section 403(17) of P.L. 81-874 of existing law and makes certain changes. First, the amendment repeals the so-called "mini-comparability" report which presently must be filed before expenditures under bilingual and handicapped programs may be excluded. Second, the amendment requires that advance determinations be made by the Commissioner or State educational agency that state or local programs, as legislated, satisfy the requirements for the exemptions. Finally, the amendment extends the categories of programs which qualify for the exclusions to include certain state programs being phased into full operation by a date certain.

New Section 42. Limited Exemption to Non-Supplanting Requirement Where Certain Special Programs For Educationally Deprived Children Are Fully Funded

The amendment creates a limited exemption from the "supplement, not supplant" requirement, where the amount of State or local compensatory education funds (satisfying the conditions for an exemption from the excess costs and comparability provisions) used in areas eligible for assistance under Title I when added to the amount of Title I funds provided to the local educational agency equals or is greater than the amount of Title I funds a local educational agency would have received that year had Title I been fully funded. Under this limited circumstance, the local educational agency may use additional state compensatory education funds exclusively in non-Title I areas until those areas are brought up to the same level of total compensatory education funding (state and federal) provided per program participant in the Title I areas. After the non-Title I areas are brought up to this level, the "supplement, not supplant" requirement is fully applicable to the distribution of any additional state compensatory education funds. This section also permits States to spend two dollars of their own compensatory funds in non-Title I areas for every dollar in a Title I area under certain conditions.

New Section 43. School-wide Projects

New Section 43 (no comparable provision in existing law) permits schools having 70 percent or higher concentrations of children from low-income families to utilize Title I funds to design a single Title I program for all children in the school, provided that the school district satisfies certain conditions. First, the amendment provides that the school district must (a) allocate Title I funds, at a minimum, in an amount equal to the per pupil amount allocated to Title I children in schools which are not highly concentrated and (b) contribute state or local supplementary funds in an amount, per child who is not educationally deprived, equal to the amount provided per educationally deprived child attending the highly concentrated school. Second, the highly concentrated school must develop a school plan, approved by the State educational agency and the parent advisory council for such school established under Section 35, which specifies, among other things, the steps it plans on taking for meeting the needs of the educationally deprived children. If the plan is approved, the local educational agency is relieved, with respect to such school, of (a) any prohibitions against commingling and (b) any demonstration that services provided with Title I funds are supplementary to the services regularly provided in the school.

New Section 44. Noninstructional Duties

New Section 44 (no comparable provision in existing law) permits personnel paid entirely by Title I funds to assume duties such as hall and cafeteria duty normally performed by similarly situated personnel paid by state and local funds so long as the amount of time Title I-paid teachers spend on non-title I-related duties does not exceed the proportion of time spent on such duties by non-Title I-paid teachers or 10 percent, whichever is less.

PART B—PROGRAMS OPERATED BY STATE AGENCIES

New Section 51 and Section 52. Programs for Migrant Children (Grants—Entitlements and Amount; Program Requirements)

New Section 51 (Section 122 of existing law) generally retains the current formula for allocating Title I funds for programs for migrant children, except with respect to Puerto Rico. The modification is consistent with the change described previously under Section 11. New Section 52 (Section 122(a)(1) of existing law) prescribes the applicable requirements applicants must satisfy in order to receive Title I funds. A new section is added authorizing funds to the Commissioner to make grants and contracts to encourage inter-State coordination.

New Section 61 and Section 62. Programs for Handicapped Children (Amount and Eligibility; Program Requirements)

New Section 61 (Section 121 of existing law) generally retains the current formula, except with respect to Puerto Rico (see Section 11). New Section 62 (Section 121 of existing law) prescribes the program requirements applicants must satisfy in order to receive Title I funds.

New Section 71 and Section 72. Programs for Neglected and Delinquent Children (Amount and Entitlement; Program Requirements)

New Section 71 (Section 123 of existing law) generally retains the current formula, except with respect to Puerto Rico (see Section 11). New Section 72 (Section 123 of existing law) prescribes the program requirements applicants must satisfy in order to receive Title I funds.

New Section 81. Reservation of Funds for Territories

New Section 81 is identical to Section 124 of existing law, except the Northern Marianas is added to the list of insular territories.

New Section 82. Minimum Payments for State Operated Programs

New Section 82 (Section 125 of existing law) reduces the minimum amount a state receives in the state-operated programs from 100 percent to 85 percent of the amount the state received in the prior fiscal year, except for payments under the migrant education program which are not reduced until 1983.

PART C—STATE ADMINISTRATION OF PROGRAMS AND PROJECTS ASSISTED UNDER THIS TITLE

New Section 101. Submission of State Applications

New Section 101 (Section 142 of existing law) retains the requirement that the state submit an application to the Commissioner.

New Section 102. Contents of State Application

New Section 102 requires that the state submit a series of assurances (similar to the requirement in Section 142 of existing law) and adds a new requirement that the application must contain sufficient information for the Commissioner to make the findings required by Section 132 pertaining to the approval of applications by the Commissioner.

New Section 111. Application Approval

New Section 111 (Sections 141(a), 142(a), and 142(b) of existing law) clarifies the interrelationship between the state educational agency's function of approving applications and other state administrative functions performed under this title, e.g., monitoring, auditing, complaint resolution, and enforcement. The amendment requires that, in addition to reviewing the LEA's applications, the state educational agency must review and take into consideration, pertinent federal and state audits and program review reports and administrative complaints and evaluations.

New Section 112. State Rulemaking

New Section 112 (no comparable provision in existing law) codifies longstanding OE policy that states may issue their own rules which are not inconsistent with existing federal policy.

New Section 113. Technical Assistance and Dissemination of Information

New Section 113 (Section 143(b) of existing law) clarifies the purpose of technical assistance as extending to all areas of program administration, rather than relating solely to evaluation.

New Section 114. Monitoring

New Section 114 (no express requirement found in existing law) generally provides that each State educational agency must establish standards for monitoring programs, consistent with minimum standards established by the Commissioner, including the frequency of on-site visits and the methods for reporting, responding to and correcting problems uncovered during monitoring visits.

New Section 115. Complaint Resolution

New Section 115 (no comparable provision in existing law) prescribes minimum standards for the development of complaint resolution procedures.

New Section 116. Withholding of Payments

New Section 116 (Section 146 of existing law) clarifies existing law by expressly providing that the SEA must withhold Title I funds once it finds, after reasonable notice and an opportunity for a hearing, that an applicant has failed to comply substantially with any program requirement. The bill also includes a new enforcement provision which would authorize an SEA to enter into a "compliance agreement" in lieu of withholding.

New Section 117. Audits and Audit Resolution

New Section 117 (no comparable provision in the existing statute) includes the following requirements: (a) the state must make provision for the fiscal and compliance auditing of programs, (b) audits may be carried out by the SEA or other state agency, LEA, or independent auditor under contract with the state or LEA, (c) the SEA must establish written audit resolution procedures, (d) the SEA must ensure that misspent funds are repaid from nonfederal sources, (e) SEA procedures must provide for a right of appeal to the Commissioner, (f) the SEA must notify the Commissioner which applicants have refused to repay misspent funds, and (g) the Commissioner must initiate collection action.

New Section 121. State Monitoring and Enforcement Plans

New Section 121 (no comparable provision in existing law) requires that the state educational agency submit at least once every three years a monitoring and enforcement plan indicating the efforts it will be taking to ensure that local educaional agencies and state agencies are in compliance with the Title I requirements and to describe its efforts since submission of the previous plan to enforce these requirements.

New Section 122. Reporting

New section 122 generally retains the reporting requirements contained in Section 142(a)(3) of existing law.

New Section 123. Recordkeeping, Fiscal Control, and Fund Accounting

New Section 123 generally retains the requirements contained in Section 142(a)(2) of existing law.

New Section 124. Prohibition on Consideration of Federal Aid in Determining State Aid

New Section 124 retains the prohibition on consideration of federal aid in determining state aid contained in Section 143(a)(1) of existing law.

PART D—FEDERAL ADMINISTRATION OF PROGRAMS AND PROJECTS ASSISTED UNDER TITLE I

New Section 131. Applicability

New Section 131 explains that, in addition to requirements contained in Title I, the requirements pertaining to federal administration contained in the General Education Provisions Act are equally applicable.

New Section 132. Approval of Applications

New Section 132 (Section 142(a) of existing law) retains existing law requiring Commissioner approval of state applications and adds certain new requirements. Under the amendment, the Commissioner may not approve a state application until he has made specific findings in writing that the state has or will satisfy all applicable requirements, including the requirement that the state submit a monitoring and enforcement plan.

New Section 133. Program Evaluation

New Section 133 generally retains the provisions contained in Section 151 of existing law with the addition of a requirement that an advisory council mostly composed of local professionals be appointed for each such evaluation.

New Section 134. Complaint Resolution

New Section 134 (no comparable provision in existing law) establishes minimum standards for the establishment of complaint resolution procedures at the Federal level.

New Section 135. Audit and Audit Resolution

New Section 135 (no comparable provision in the existing law) clarifies HEW's legal authority and responsibility to audit applicant programs. In addition, the bill specifies certain minimum standards concerning the resolution of outstanding audits. First, the Commissioner is required to adopt procedures to assure timely resolution of audits, including timetables and an audit appeals process. Second, the amendment specifies that misspent funds must be repaid from funds derived from non-federal funds or federal funds other than Title I.

New Section 136. Withholding of Payments

New Section 136 (Section 146 of existing law) retains existing authority to withhold Title I funds and incorporates into the Title I statute the authority to suspend Title I payment pending a hearing. Such authority is presently contained in the General Education Provisions Act withholding provision. The bill also authorizes the Commissioner to enter into a compliance agreement in lieu of withholding.

New Section 137. Policy Manual

New Section 137 (no comparable provision in existing law) would require that OE develop and disseminate a policy manual to: (a) assist applicants in preparing applications, meeting applicable program requirements, and enhancing the quality of programs, (b) assist state educational agencies in achieving proper and efficient administration of programs, (c) assist parent advisory councils in performing their responsibilities, and (d) ensure that federal officials uniformly interpret, apply, and enforce Title I requirements throughout the country. The manual would contain, among other things, an explanation of the purpose of each requirement and how requirements interrelate, a statement of the procedures to be followed by the federal government respecting the proper and efficient administration of its functions, model application forms and monitoring instruments, and models describing legal program designs including specifications concerning the constitution of a "sufficient audit trail."

PART E—PAYMENTS

New Section 141. Payment Methods

New Section 141 is identical to Section 143(a)(1) of existing law.

New Section 142. Amount of Payments to Local Educational Agencies

New Section 142 is identical to Section 143(a)(2) of existing law.

New Section 143. Adjustments Where Necessitated by Appropriations

New Section 143 is similar to Section 144 of existing law except that the amount paid to a local educational agency under sections 11 and 21 could not exceed 100 percent of its maximum entitlement under Section 11, and any excess would be ratably allocated to other local educational agencies in the state that are not receiving their maximum entitlements.

New Section 144. Payments for State Administration

New Section 144 would increase the amount provided to states under Section 143(b) of existing law for administration of the program from 1 to 1.5 percent of the amount of grants to local educational agencies in the state. The minimum amount would be raised from $150,000 to $225,000 ($50,000 in the case of the outlying areas). Administrative funds exceeding one percent must be used to pay for supplementary compliance efforts.

Part F—General Provisions

New Section 151. Judicial Review

New Section 151 is identical to Section 147 of existing law.

New Section 152. National Advisory Council

New Section 152 is identical to Section 148 of existing law.

New Section 153. Limitation on Grant to Puerto Rico

New Section 153 amends Section 843(d) of P.L. 93–380 to provide that the maximum payment to Puerto Rico under Title I would be 150 percent of the amount it received in the preceding fiscal year. Any excess over such an amount will be used to ratably increase the allocations under subpart 1 of Part A of the other local educational agencies in the country whose allocations do not exceed the maximum amount for which they are eligible under Section 11.

New Section 154. Definitions

New Section 154 incorporates most of the definitions presently contained in Section 403 of P.L. 81–874 and adds definitions for the terms "school attendance area" and "project area". Under new Section 154 the term "local educational agency" no longer includes state agencies operating programs for handicapped, neglected, and delinquent children.

Section 102. Conforming Amendments

Section 102 of the bill contains several conforming amendments, including a provision which would remove Title I of the Elementary and Secondary Education Act from the Impact Aid legislation (presently Title I of ESEA is officially designated "Title II" of P.L. 81–874).

Section 103. Study of Alternatives for Demonstrating Comparability

Section 103 of the bill authorizes the Commissioner to waive existing criteria for demonstrating comparability for all the school districts in one state and a limited number of school districts in other states for the purpose of analyzing the feasibility and desirability of (a) modifying the existing criteria set forth in OE regulations for demonstrating comparability and (b) modifying the reliance on the non-Title I average as the standard of comparison for demonstrating comparability.

Section 104. Study of Parental Involvement

Section 104 of the bill directs the National Institute of Education to conduct a study on the effectivenes of parental involvement in Title I schools.

TITLE II—AMENDMENT TO TITLE II OF THE ELEMENTARY AND SECONDARY EDUCATION ACT

Section 201. This section extends the authorization of appropriations for Title II of the Elementary and Secondary Education Act until fiscal 1983.

TITLE III—AMENDMENT TO TITLE III OF THE ELEMENTARY AND SECONDARY EDUCATION ACT

Section 301. This section extends the authorization of appropriations for Title III of the Elementary and Secondary Education Act until fiscal 1983.

TITLE IV—AMENDMENT TO TITLE IV OF THE ELEMENTARY AND SECONDARY EDUCATION ACT

Section 401. This section extends all of the programs authorized until Title IV of the Elementary and Secondary Education Act until fiscal year 1983.

The authorization of appropriation for the innovative program (Part C of Title IV) is increased from $350 million to $450 million a year in order to provide additional funds for the new authority given the States by these amendments to operate demonstration programs to improve compensatory education.

This section also creates a new authorization of $80 million for the purpose of funding the new separate guidance, counseling and testing program (a new Part D of Title IV). This new program is required to be funded by these amendments if the Congress appropriates any funds at all for Title IV and the level of funding to be provided must be at least equal to $18 million or the level provided in the previous fiscal year.

This section amends the library resources program (Part B of Title IV) in order to eliminate funding for guidance counselors from that program. Instead, the funding of guidance, counseling, and testing would be from this new Part D. This new program would provide funding for State leadership and supervisory services and for guidance, counseling and testing programs in local school districts with a requirement that not to exceed 7½ percent of the funds provided under this part would be available for the State level activities. The requirement presently contained in Public Law 93–380 concerning the establishment of an administrative unit in the Education Division for guidance and counseling would be transferred to this new Part D.

This section also repeals the requirement contained in present law that only one application is to be submitted by local school districts for all funds under Title IV.

Section 402. The State Advisory Council for Title IV would be amended by this section to require membership of school librarians, media personnel and guidance counselors.

Section 403. This section contains amendments strengthening the requirements in present law regarding the participation of children in private schools in programs authorized under Title IV. The new provisions include requirements that the State provide programs for private school children even if the local school district is not receiving funds under the library resources program (Part B of Title IV), that the Commissioner hold a State's funds in escrow during periods during which he is negotiating a bypass of the State agency, and that an affected State be given an opportunity to show cause why such a bypass action should not be taken (instead of the currently required on-the-record hearing) before he invokes a bypass.

Section 404. This section amends the library resources program in order to require that the materials and equipment purchased pursuant to this program may only be used for instructional purposes.

Section 405. This section amends the innovation program to permit States to fund activities to develop model programs to improve school management and to coordinate all educational resources in a school, and to require that no less than 50 percent of the appropriations in excess of the 1979 level under this program be used for innovative programs in compensatory education. These innovative compensatory programs may include summer programs, parental education programs, and teacher retraining programs.

This section also contains a new provision limiting assistance for any particular innovative activity to no more than five fiscal years.

Section 406. This section extends the authorization of appropriations for Title III of the National Defense Education Act through fiscal year 1983.

TITLE V—AMENDMENT TO TITLE V OF THE ELEMENTARY AND SECONDARY EDUCATION ACT

Section 501. This section extends the authorization of appropriations for Title V of the Elementary and Secondary Education Act through fiscal year 1983.

TITLE VI—MISCELLANEOUS PROGRAMS

Section 601. Title VI of the bill includes amendments affecting miscellaneous education programs which are presently authorized in the Education Amendments of 1974 (Public Law 93–380) or in the Education Amendments of 1976 (Public Law 94–482) or which are new programs. The present Title VI of the Elementary and Secondary Education Act is empty since the handicapped education program was moved to its own law by the Education of All Handicapped Children Act (Public Law 94–142).

New Part A—Reading and Mathematics Program

This new Part A of Title VI contains amendments to the Reading Improvement Act of 1974 which is now contained in Title VII of Public Law 93–380. The amendments expand that Act to include mathematics activities as well as reading activities, eliminate the authority for the Commissioner to directly fund local school districts with the first $30 million of appropriations (instead all but nationally significant projects would be funded through State plans), expand fundable activities to include secondary school programs, encourage the involvement of parents, and in general greatly simplify the administration of the Act. The program to encourage the distribution of inexpensive books is retained with an amendment easing the matching requirement for programs benefitting migrants and seasonal workers.

NEW PART B—SPECIAL PROJECTS

The new Part B of Title VI rewrites the Special Project Act, beginning in fiscal year 1980, in order to give the Department of Health, Education, and Welfare more discretion over the amount of funds which must be spent for each one of the programs listed in the Act and to remove certain programs from the Act since they are given their own authority under other parts of this title. This part also permits activities under the Special Projects Act to be funded by the Department without a plan for those activities being submitted to the Congress each year. Another amendment transfers the authority for funding most of the programs under the Act from the Commissioner to the Secretary of Health, Education, and Welfare.

The Act is also amended to require the participation of private school children who have educational needs which the programs are trying to address. The requirements for particular funding authorities are that at least $5 million a year must be spent for consumer education, at least 10 percent of the appropriations must be spent on preschool partnership programs and at least 5 percent of the appropriations must be spent on dissemination of information. The authority for funding career education programs is limited to those programs which help to achieve the purposes of the Career Education Incentive Act. The new authority for pre-school partnership programs is meant to encourage cooperative pilot projects between local school districts and Head Start programs so that the transition of pre-school-aged children into school will be eased. New authority is also provided for the Secretary to make small grants, not in excess of $25,000, to individuals and organizations for innovative purposes. Lastly, new authority is included for the funding of population education programs.

NEW PART C—GIFTED AND TALENTED CHILDREN

This new part authorizes funds for gifted and talented children's program. That program is now contained as an authority under the Special Projects Act.

This revised program increases the authorization of appropriations for such programs and requires that 55 percent of these sums be used for grants to local educational agencies, 30 percent must be used for grants to State educational agencies and 15 percent must be used for research and demonstration programs.

NEW PART D—WOMEN'S EDUCATIONAL EQUITY

This new part creates a separate authorization of appropriations for funding women's educational equity programs. Presently authority for that purpose is contained as part of the Special Projects Act.

This part increases the authorization of appropriations for women's programs and requires that the first $15 million of appropriations must be used for demonstration, development and dissemination activities of national significance. The appropriations in excess of that amount are to be used for grants to local school districts and to other eligible recipients for programs of local significance to provide equal educational opportunities for the sexes, activities incident to achieving compliance with Title IX of the Education Amendments of 1972, and other special activities. The Commissioner is authorized to carry on a program of small grants, not to exceed $25,000 each, under this part.

NEW PART E—COMMUNITY SCHOOLS

This new part creates a separate authorization of appropriations for funding community schools programs. Presently, this authority is contained in the Special Projects Act.

The authorization of appropriations for this program is increased for three years and then it decreases for two years. Concomitantly, the requirement for local and State matching increases from 20 percent to 80 percent of the funds available for carrying out the State plan over the same time period.

A major change contained in the amendment from the program contained in the Special Projects Act is that the funds are to be used principally to carry out State plans submitted by State educational agencies. Projects funded under these State plans are meant to encourage other Federal programs and local and State funding services to be provided in school buildings. Funds available under this part may be used to pay the non-Federal share of any matching requirement involved in obtaining funds from a specified list of other Federal programs. These funds may also be used to provide educational, cultural, recreational, health care and other services.

The Commissioner is also permitted to fund local school districts directly from a separate authorization of appropriations provided for that purpose. He may also make grants to non-profit private organizations from these same funds.

The Assistant Secretary for Education is required to hold not less than two national conferences on community education, and the National Institute of Education is required to carry out a program of research on the impact of community education. The Commissioner is required to establish or designate a clearinghouse on community education.

NEW PART F—BIOMEDICAL SCIENCES

This new part creates a new program of grants to institutions of higher education for the purpose of mounting programs to educate, motivate and encourage students from economically disadvantaged backgrounds to pursue training at the undergraduate and graduate level in biomedical sciences. These programs must be carried out in cooperation with public secondary school systems and must provide offerings during the school year for public and private schoolchildren of courses in biomedical sciences and related offerings during the summer months. Forty million dollars is authorized for fiscal year 1979 and such sums are authorized for the three succeeding years for this purpose.

PART G—ETHNIC STUDIES

This part extends the Ethnic Studies Heritage Act through fiscal year 1983. The Act is also moved from title IX of ESEA to title VI.

TITLE VII—AMENDMENT TO THE BILINGUAL EDUCATION ACT

Section 701. This section amends the Bilingual Education Act, Title VII of the Elementary and Secondary Education Act, by striking out all references to children "of limited-English speaking ability" and by inserting in lieu thereof children "with limited-English language skills". This section also amends the Statement of Policy of the Bilingual Education Act to emphasize that children with limited-English language skills have high drop-out rates and that research and evaluation in the area of bilingual education are necessary. The definition of individuals "with limited-English language skills" is also amended to include not only individuals who have difficulty speaking and understanding English (as presently provided) but also individuals who have difficulty reading or writing English. The term "program of bilingual education" is also amended to mean a program providing instrution in English to the extent necessary to allow a child to "achieve competence in the English langauage" instead of to "progress effectively through the educational system" as presently provided. The same term is also amended to include instruction given with an appreciation of the cultural heritage of other children in American society.

The same section amends the provision which presently permits a limited number of English-speaking children to participate in programs by making it clear that these children may not exceed 40% and that the objective of the whole program is to assist children with limited-English language skills to improve those skills. It is also made clear that where local or State practice may lead to the segregation of children with limited-English language skills, the bilingual program may provide for centralization of teacher training and curriculum development while serving children in the schools which they normally attend.

This same section strengthens the provision for parental participation by requiring that a parental advisory council must participate in developing the application and that parents of these children must be informed of the instructional goals of the program and of the progress of their children.

Section 702. This section provides that no local program in a school is to receive funds for more than five fiscal years unless the school district shows adequate progress and demonstrates clear fiscal inability and there is either a continuing presence of a substantial number of students with limited-English language skills or a recent substantial increase in such numbers or an obligation on the school district pursuant to a court order of a Title VI plan to provide services for such children. This section also requires each local program to have a plan of evaluation and to provide for the use of adequate funds for teacher training (instead of the presently required 15% of each local grant for teacher training).

This section also contains new requirements that the school district must be building a capacity to provide such programs, that the children most in need will be served, that Federal funds will supplement and not supplant local funds, and that personnel are bilingual.

This section also permits these funds to be used in Puerto Rico to teacher English to Spanish-speaking children; and it also provides that any application under the Act may be submitted for up to three years.

This section also amends the provision regarding the Bureau of Indiana Affairs' schools to permit the Commissioner to directly fund such schools on an individual basis instead of going through the Department of Interior as presently required. This section also includes counselors in those eligible for in-service training and requires the Commissioner to undertake a longitudinal study of the recipients of teaching fellowships. Recipients of these fellowships will also be required to work for an equal period of time in an activity related to the training of teachers for bilingual education.

Section 703. This section adds a new provision to the Act which requires the Commissioner to withhold approval of a local application until the applicant demonstrates that it is in compliance with the requirement for the participation of private school children or, if such does not occur, the Commissioner is required to reduce the applicant's grant and to provide services to private school children through other agencies.

Section 704. This section increases the regular authorization of appropriations for the Act and increases the authorization for research activities and reduces the amount which must be spent on teacher training. This section also requires the Director of Bilingual Education to coordinate the bilingual education aspects of other programs in the Office of Education, and requires the annual submission of a report of bilingual education including the consideration of the need for the program in Puerto Rico.

This section also adds new requirements that the Commissioner develop models for bilingual education programs, and that the Secretary of HEW submit a report on the number of children in the country with limited-English language skills and develop methods for identifying such children and evaluation and data gathering models for programs for such children. The National Advisory Council on Bilingual Education is required to have as members at least two parents whose language is other than English.

Section 705. This section contains new provisions requiring research on improving teacher training and research on activities involving teaching of the cultural heritage of children. The authorization of appropriations for research is also increased.

Section 706. This section transfers to the Bilingual Education Act the bilingual education program presently contained in the Emergency School Aid Act.

TITLE VIII—AMENDMENTS TO TITLE VIII OF THE ELEMENTARY AND SECONDARY EDUCATION ACT

Section 801. This title contains a new authority for the Commissioner to make grants to States (or to any local educational agency in a

State in which the State has not applied for funds) to carry out a plan to assist students in achieving levels of educational proficiency. These plans must contain a description of the proficiency standards established by the State or local school district, a description of the programs designed to assist students in achieving these levels, optional provision of examinations to students to measure their proficiency, and assurances that any student failing such an examination would be provided with remedial instruction. This section provides, however, that nothing contained in it is meant to authorize the Commissioner to impose tests on States or local school districts and no such agency shall be compelled to apply for these funds.

This section also authorizes the Secretary to assist States and local school districts to develop their capacities to conduct programs of testing achievement in the basic skills. These activities may include disseminating information on the availability of tests, training of administrators and teachers in the use of tests, and research and evaluation to determine more accurate measures of achievement.

Lastly, this section contains new authority for the Commissioner to waive requirement of ESEA programs which are impractical or inappropriate for the outlying areas.

TITLE IX—AMENDMENTS TO THE EMERGENCY SCHOOL AID ACT

Section 901. This section reduces from $185 million to $155 million the amount which must be apportioned among the States for programs under the Act. It also provides an open-ended authorization for discretionary activities of the Assistant Secretary. Lastly, it authorizes $7,500,000 a year for the provision of compensatory education to students who had previously received such services under Title I of the Elementary and Secondary Education Act but who are no longer receiving such services due to attendance area changes.

Section 902. This section changes the requirement for the appointment of funds among the States by specifying that the minimum grant must be no less than $100,000 per State and by giving the Assistant Secretary flexibility in reapportioning funds not used by school districts from among their State apportionments.

Section 903. This section adds a new category of school districts to the list of eligible districts presently contained in the Act. This new category is for school districts under court order or Title VI plans to desegregate which order or plan also requires any other remedy to improve the overall quality of education in the school district. This section also provides that a school district may receive a waiver of ineligibility if the school district is seeking assistance for activities related to the assignment of employees.

Section 904. This section revises the list of authorized activities contained in the Act in order to emphasize those activities directly related to implementing desegregation plans. New authority is also provided for the provision of compensatory services to children who previously received such services under Title I but who lost such services due to school attendance changes.

Section 905. This section revises the Act to give the Assistant Secretary more flexibility in the use of the discretionary funds available to him. It also requires the Assistant Secretary to carry out a program of grants to the States to assist in the voluntary desegregation of public elementary and secondary schools. This assistance would be provided on a matching basis and could not exceed 10% of the funds appropriated to a State or $500,000, whichever is greater.

Section 906. This section revises the Act to require the Office of Education to conform to certain definite time periods for the approval or disapproval of applications. It also simplifies the application procedure and permits funds to be available under an application for a period of up to five years.

Section 907. This section removes the earmarking of funds for educational TV programs and permits local school districts to carry over into the succeeding fiscal year any funds made available to them under the Act. This section also strengthens the provisions for the participation of private school children, repeals the section requiring a twice-yearly report, and repeals the requirement for a national advisory council.

This section also conforms the definition of "minority group" to that used throughout the Federal government and includes the Northern Mariana Islands in the benefits of the Act.

TITLE X—AMENDMENTS TO THE IMPACT AID LAWS

Sections 1001 and 1002. These sections extend the impact aid laws through fiscal year 1983.

Section 1003. This section eliminates the distinction between so-called "B" children" whose parents work on Federal property located in a county or State outside the county in which the school district lies. Instead, all "B children" would be treated alike for payment and eligibility purposes.

Section 1004. This section repeals the absorption provision contained in present law.

Section 1005. This section increases the payment for handicapped children of Indian and military personnel from 150% to whatever may be the overall cost of providing them a free appropriate public education, less the amount paid under the Education of the Handicapped Act.

Section 1006. This section requires the Commissioner to pay heavily impacted school districts increased amounts for military "B children".

Section 1007. This section requires the Commissioner to make payments to impacted districts of at least 75% of the amount they are due within 30 days of the beginning of a fiscal year.

Section 1008. This section requires any State seeking to avail itself of this provision to submit notice to the Commissioner and to provide notice to each local educational agency in the State. The Commissioner must provide the local school districts an opportunity for a hearing.

Section 1009. This section repeals the provision of current law limiting the amount of payments which can be made on behalf of children residing in federally assisted low rent public housing projects and requiring that aid received due to these children must be spent on special programs for educationally deprived children.

Section 1010. This section requires that the Commissioner must hold a hearing whenever a local educational agency is aggrieved by any one of his actions under this Act and this hearing must be in conformity with the Administrative Procedures Act.

Section 1011. This section amends the provisions for totally federally supported schools (section 6 schools) to require that the personnel in such schools located outside of the 50 States must be paid in conformity with the salaries in the District of Columbia schools, to require the Commissioner to annually review the expenditure of funds and the quality of education being offered in such schools, and to require the establishment of elected school boards for such schools.

Section 1012. This section amends the disaster assistance provisions of current law to require the Secretary of HEW to assume responsibility for the processing of any application for such assistance if the Commissioner does not complete action within 60 days on such processing.

Section 1013. This section eliminates payments for children beyond the 12th grade after October 1, 1979.

Section 1014. This section permits payments to be made for handicapped children who are attending schools outside of the local educational agency.

Section 1015. This section permits the conversion of average daily membership into average daily attendance for school districts in States reimbursing based upon average daily membership for State aid purposes.

Section 1016. This section amends the school construction act (P.L. 815) to conform the counting of children to that used in P.L. 874.

Section 1017. This section permits the use of funds in section 6 schools for leasing, renovating, remodeling or rehabilitating such schools.

Section 1018. This section amends the disaster assistance program under P.L. 815 to provide the assistance in the form of grants as is presently provided for disaster assistance under P.L. 874.

Section 1019. This section contains the effective dates for these amendments.

TITLE XI—THE INDIAN EDUCATION ACT

PART A—ASSISTANCE TO LOCAL EDUCATIONAL AGENCIES

Section 1101. This is an amendment to P.L. 81–874, which introduces a new paragraph 3(d)(2)(D), to establish a new method of computing entitlements and making payments for children who live on Federal Indian trust property and who are educated in public schools.

Section 1101(a)(D)(i). The amount of P.L. 81–874 moneys LEA's would be entitled to receive for Indian "A" children would be equal to the sum of the regular "A" payments for such children, times 125 per centum.

Section 1101(a)(D)(ii). School districts would have one year from: (1) the date of enactment or (2) establishment of the LEA to formulate policies and procedures to ensure Indian input as outlined in (a)(D)(iii).

Section 1101(a)(D)(iii). To qualify for these funds, an LEA must institute policies and procedures to guarantee that:

(1) Indian children participate equally in the programs;

(2) Indian parents and tribes have been consulted and involved in the planning, development and operation of these programs;

(3) Indian parents and tribes have had an opportunity to point out needs of children and recommend solutions;

(4) Program evaluations are made available to parents and tribes.

Section 1101(a)(D)(iv). Tribes having students in attendance in an LEA may file a complaint based upon the policies and procedures formulated pursuant to (D)(iii) with the Commissioner. The Commissioner is to then arrange a hearing within 10 days at a place convenient to the tribe and LEA. The hearing is to be chaired by an appointed individual from outside HEW and a record of the hearing is to be kept. The hearing officer will submit his findings of fact and written recommendations to the Commissioner who will then make the final determination (which will be subject to judicial review). The final determination, when appropriate, will set out remedial actions to be taken (if any) and the time period for such action.

Section 1101(a)(D)(v). If the remedy proposed in the final determination is rejected by the LEA or is not undertaken within the time set (and the time is not extended), a tribal council, acting on behalf of students who are served by the LEA, can elect to remove its children and:

(1) Have BIA provide services

(2) Establish a contract school under the provisions of P.L. 93-638.

Section 1101(a)(D)(vi). The Commissioner, after consultation with the BIA, shall establish a method for making this transfer as expeditiously as possible.

Section 1101(a)(D)(vii). Nothing in division (iv) or (v) (complaint procedure) applies to elected school boards a majority of whom are Indians.

Section 1101(a)(D)(viii). The weighting factor and special procedures herein are based on the special relationship between Indian nations and the Federal Government and doesn't relieve the states of any duties as regards their citizens.

Section 1101(b). The LEA's funded under this provision would receive 75% of their funds under the so-called second tier of 874 payments. This would effectively guarantee 100% payments.

Section 1102(a). Calls for the funds allocated under the Johnson-O'Malley Act to be done so on the basis of a weighting formula based on the number of Indian students enrolled in public elementary and secondary education programs in each State, multiplied by the average per pupil expenditure in such State. However the average per pupil expenditure for each State used for the purposes of this computation shall be limited to not less than 80 percent, and not more than 120 percent of the average per pupil expenditure for the U.S. In those areas where civilian employees of the U.S. Government receive a special allowance because of the high cost of living, the amount received by the State may exceed the national average by the same percentage as the percentage of basic pay which is received by those employees.

PART B—BUREAU OF INDIAN AFFAIRS PROGRAMS

Section 1121(a). Calls for the establishment within 18 months of criteria to meet the basic educational program needs of Indian students enrolled in Bureau or contract schools.

Section 1121(b). In gathering information for the studies described in Section 1121(a), the Secretary of Interior shall give tribes and organizations concerned with Indian interests an opportunity to give input.

Section 1121(c). Establishes the time frame in which the standards developed through Sections 1121 (a) and (b) shall be implemented. The Secretary also, through contracting procedures, is to assist local contract school boards in implementing the same standards, where such implementation is requested. The failure to meet these standards will not provide a reason for the Secretary's declining to contract.

Section 1121(d). Instructs the Secretary to alter the standards in each school where necessary to insure that they are less than is needed for State accreditation.

Section 1121(e). Grants the Secretary discretion to alter the Bureau's basic education standards to meet special educational needs which the governing bodies of the tribes affected, or the school board of a contract school, express.

Section 1121(f). Authorizes funds for the academic program required under the standards set in this Section.

National Criteria for Dormitory Situations

Section 1122(a). A companion to section 1121, this section requires the Secretary to carry out a study of needs in Bureau dormitory facilities and to establish standards for Bureau "home living situations". The Secretary will then transmit this information to the Congress.

Regulations

Section 1123. The Secretary shall establish any regulations needed to carry out provisions in Sections 1121 and 1122 within 18 months from the date of enactment of this Act.

Studies

Sction 1124. The Secretary is authorized to expend up to $1,000,000 of Snyder Act funds for the studies called for in Sections 1121(a) and 1122 of this Title.

Facilities Construction

Section 1125(a). Mandates the Bureau to bring all schools, dormitories, and facilities operated by the Bureau which are related to the education of Indian children, into compliance with all Federal or State health and safety codes, and also with Section 504 of the Vocational Rehabilitation Act.

Section 1125(b). The Bureau shall submit to Congress on a regular basis the system it uses to establish construction priorities, along with a current list of those priorities.

Section 1125(c). Authorizations are at the level of "such sums as needed" to carry out the requirements under sub-part (a) of this Section.

Bureau of Indian Affairs Education Functions

Section 1126(a). Directs the Secretary to vest ultimate control over the direction, supervision and expenditure of Federal funds for all Bureau education programs in the Director for the Bureau's Office of Indian Education.

Section 1126(b). Grants the Director of the Office of Indian Education Programs authority over all personnel who deal solely with education at the levels of Central, Area, Agency, and local offices.

Section 1126(c). Spells out the Agency education personnel functions.

Implementation of Policies and Procedures

Section 1127. Gives the Secretary six months after the date of enactment of the Act to establish policies and procedures vesting the Director of the Office of Indian Education Programs with the line authority for Bureau education.

Allotment Formula

Section 1128. Directs the Secretary to establish an allotment formula to be used by the Bureau for direct funding to Bureau and Indian-controlled contract schools.

Direct funding

Section 1129(a)(1). Mandates that within six months after the date of enactment of this Act, the Office of Indian Education Programs is to establish a method for direct funding for each Bureau and Indian-controlled contract school. This subsection also requires the Director of the Office to give the local schools approximations of their allotments not later than the end of the school year preceding the year for which the allotment is made. The local school administrator shall formulate a financial plan based on the approximate figure. The local school boards (which are at present only advisory) would then have the authority to ratify or reject this plan. A school supervisor could appeal a rejection by the board to the superintendent for education for the relevant BIA agency.

Section 1129(a)(2). States that the funds for the basic programs for the Bureau schools shall not be subject to the band analysis.

Section 1129(a)(3). States that the local school board would have control over the financial plan referred to in Sec. 1129(a) unless the tribal council votes to rescind such control.

Section 1129(b). Requires that grants pursuant to Section 104(a)(2) of the Indian Self-Determination and Education Assistance Act, will be made only if the Bureau and tribe agree that, at some future date, contracting of a program will occur. Follows the original legislative intent.

Section 1129(c). Local school boards may request technical assistance and training from the Director of the Office in addition to that provided by their Agency.

Policy for Indian Control of Indian Education

Section 1130. This section encourages Indian control of all Indian Affairs related to education. This section re-emphasizes the intent of the Indian Self-Determination and Education Assistance Act.

Education Personnel

Section 1131(a). States that the competitive service provisions of the Civil Service (51 U.S.C. 5) will not apply to education positions for persons hired after six months after the date of enactment. Current employees would not be affected, unless they elect such inclusion within 5 years.

Section 1131(b). Calls for the Secretary of the Interior to develop regulations to carry out this section. Also spelled out are some of the specific areas over which the Secretary has the responsibility to establish regulations.

Section 1131(c). This section spells out in detail who will be the hiring authority for education positions at the local schools, and what roles the local school boards will play in the recruitment process.

Section 1131(d)(1)(A). This section vests local termination authority in the supervisor of any Bureau school. When he gives notice to the employee, he shall also give notice to the local school board, who may appeal his decision to the BIA Agency Superintendent of Education.

Section 1121(d)(1)(B). The local school board may recommend the termination of any teacher or school employee to the school supervisor also, they may recommend the termination of the school supervisor to the BIA Agency Education Superintendent and the Director.

Cection 1131(e). The local Indian school board shall have the authority to waive Indian preference with respect to education positions in the Bureau.

Section 1131(f). Grants the Secretary the authority to review all education positions.

Section 1131(g). Directs the Secretary to set the basic compensation rates commensorate with current Bueau pay scales.

Section 1131 (h–k). Embodied within these subsections are transfer provisions protecting accrued employee rights.

Section 1131(l). This subsection allows educators to work over the summer at another nonfederal job by removing the strictures against dual compensation.

Section 1131(m). Defines "education position" and "educator."

Section 1131(n). Exempts all BIA personnel employed at the time of enactment from the provisions of this Act. This should not be interpreted as exempting the current positions, but rather should assure that current employees ae covered by this provision only if they want to be.

Management Information System

Section 1132. Calls for the Secretary to within one year following enactment of this Act, to have established a computerized information system which will coordinate information between Agencies, Areas, and the Central Office.

Bureau Education Policies

Section 1133. States that within 180 days the Office of Indian Education Programs, shall submit to the Bureau field offices, the tribes and Congress a draft set of education "policies, procedures, and practices" for all education-related activities. A set of "policies, procedures, nad practices" will then be finalized and promulgated.

Uniform Education Procedures and Practices

Section 1134. The Secretary is to see that the procedures which govern activities of other divisions within the Bureau and which are related to education, are developed and administered uniformly throughout the Bureau.

Section 1135. Recruitment of Indian Educators.

Section 1136. The Secretary shall submit a report each year to both the authorizing and appropriating committees of the House and Senate, on the state of Bureau education and any problems which may require legislative oversight or action.

Section 1137. This section states that this shall not affect moneys which the Bureau is currently receiving from any other source.

Section 1138. Regulations as required for sections 1126 through 1136 of this Act.

Section 1139. Definitions.

PART C—INDIAN EDUCATION PROVISIONS (EXTENSION OF AUTHORIZATIONS

Section 1141. Amends the Indian Education Act of 1972 (P.L. 92–318) for five years at the current funding levels.

Section 1142. Adds "culturally related academic needs" to the needs to be addressed by LEA's with funds received under this Part.

Section 1143. Provides for competitive grants for LEA's to be used for demonstration projects and programs to plan for and improve education opportunities for Indian children.

Section 1144. Provides that those persons serving in the role of "parent" (in loco parentis) will be eligible to serve on advisory committees overseeing the functioning of these programs. This section also grant additional input to the advisory committees into the hiring of personnel paid for with Indian Education Act funds and requires advisory committees to adopt and abide by by-laws.

Section 1145. This section qualifies contract and alternative schools for the entitlement program funded under the Indian Education Act, as well as the 10 percent set-aside competitive program.

Section 1146. Revises and expands on the definitions of a number of education program components addressing Indian education needs. Included in this definition change is the restriction of the definition of Indian as it applies to this Part.

TITLE XII—AMENDMENTS TO THE ADULT EDUCATION ACT

Section 1201. This section modifies the statement of purpose of the Adult Education Act to emphasize functional literacy.

Section 1202. This section permits funding of programs in public and private non-profit agencies if the duly constituted education agency concurs.

Section 1203. This section includes the Northern Mariana Islands in the benefits of that Act and simplifies the submission of State plans by permitting three-year plans instead of annual plans. This section also requires a broader consultation than is presently provided for the States to develop its programs.

Section 1204. This section includes the Northern Mariana Islands in the benefits of the Act.

Section 1205. This section adds a new authority for the National Institute of Education to conduct research in the area of adult education. The Commissioner is directed to conduct evaluations of programs operated by the States.

Section 1206. This section requires the National Center for Education Statistics to collect information on progrms funded under the Act and extends the authorization of appropriations for special projects for the elderly.

Section 1207. This section contains the authorization of appropriations for the Act and requires that each State must received at least $50,000.

TITLE XIII—ADMINISTRATIVE PROVISIONS

Part A—Equalization

Section 1301. This section requires the National Center for Education Statistics to collect data from the States on the degree to which they have achieved equalization of resources and to compile profiles of such States.

Section 1302. This section requires the Commissioner to provide technical assistance to the States to assist them in achieving the equalization of resources for elementary and secondary education. The Commissioner is authorized to develop models and materials for the States and to conduct training centers for this purpose. The Commissioner must also designate a unit within the Office of Education to serve as a national dissemination center in this area. The authorization of appropriation for this purpose is $4 million a year.

Section 1303. This section requires the NIE to conduct a study on school finance among the States, within the States and within local school districts. Recommendations are to be made for a future Federal role in this area.

Part B—Paperwork Control

Section 1311. This section contains the Title.

Section 1312. This section revises the provisions presently in the General Education Provisions Act regarding the control of paperwork to extend the review of such paperwork to all that is generated throughout the Federal government which affects any educational institutions or educational policymaking. There are also established certain rules for the collection of information by Federal agencies including rules that each item of information be justified in terms of cost and use, that all requests be approved by January 1, that no duplicative requests be made, and that standard definitions and terms be used. Grants are also authorized to the States to help them to coordinate the collection of information requested of them by the Federal government.

Section 1313. The Commissioner is authorized to permit the use of applications for a period of up to two years for any program he designates. He is also required to establish uniform dates for the submission of applications and to develop common applications for the different programs the Office of Education administers.

PART C—GENERAL ADMINISTRATIVE AMENDMENTS

Section 1321. Section 1321 contains miscellaneous amendments to the General Education Provisions Act, including amendments to the general maintenance of efforts provision applicable to programs covered by section 403(a)(10) of the Elementary and Secondary Education Act and section 307(b) of the Adult Education Act. Under the amendment maintenance of efforts would continue to be determined on the basis of per pupil or aggregate expenditures. However, this section repeals the "very exceptional" circumstances exception contained in existing law but retains, in modified form, the exceptional circumstances exception. Under the amendment, where exceptional circumstances are found to exist, the Commissioner may waive for one year only, the provision and reduce the school district's allocation in proportion to the amount expended by such agency which was less than the amount expended for the second preceding fiscal year. Further, the amendment provides that the waiver may not be taken into account when computing fiscal effort in subsequent years.

Section 1322. This section requires the Secretary of HEW to establish rules of confidentiality for education programs involving research, evaluation, and data collection.

Section 1323. This section amends sections 426 of the General Education Provisions Act pertaining to technical assistance by directing the Commissioner as well as the director of the National Institute of Education to ensure that contracts for publication and dissemination of curricula or materials are (a) conducive to later dissemination through ongoing consultation with publishers and other experienced persons, (b) are awarded competively to organizations which can best assure that such curricula and materials reach the target populations, and (c) permit applicants to include reasonable consultation fees.

Section 1324. This section repeals section 434 (pertaining to the administration of education programs) and section 436 (pertaining to the vesting of title to equipment) and establishes two new subparts concerning (a) administration of education programs by states and local educational agencies and (b) recordkeeping, privacy, and limitations on withholding Federal funds. Subsection (a) of new section 434 authorizes the Commissioner to require States to submit their plans for monitoring compliance by local agencies, including their arrangements for site visits, audits, and investigation and resolution of complaints. Subsection (b) establishes procedural mechanisms for use by States in their enforcement of legal requirements, including authority to withhold approval of local applications and to withhold or suspend payments to local agencies.

New section 435 would establish a single State application procedure to cover the participation by State in titles I and IV of ESEA, the Adult Education, and part B of the Education of the Handicapped Act, part A of the Vocational Education Act, and the Library Services and Construction Act. (The Commissioner could designate additional State operated programs to be covered by this application.) Under this procedure, those assurances and requirements that are generally common to all State operated programs would be contained in a single application, filed by the State one time, and updated only as required by changes in Federal or State law.

The matters that would be covered by this application includes assurances that—

(1) the program will be administered in accordance with legal requirements;

(2) control of funds will be in an entity so authorized under the statute;

(3) proper methods of administration will be used, including the enforcement of legal requirements on local agencies;

(4) required evaluations will be conducted;

(5) proper fiscal control procedures will be used;

(6) reports will be made and records maintained as may be required by the Commissioner;

(7) opportunities will be provided for interested agencies, organizations and individuals to be involved in planning for and carrying out the programs covered by the application.

New section 436 sets forth procedures for a single local educational agency application. This application follows the general format of the single State application discussed above, and would require local educational agencies to submit to the appropriate State agency or board a one-time application that would contain all the general assurances relating to their participation in Federal programs that are administered by the State. Subsection (b) of section 1323 of the bill establishes a new subpart 4 of part C of GEPA to include the existing provisions in sections 437 through 440 relating to the maintenance of records by recipients, the Family Educational Rights and Privacy Act, and other matters.

Section 1325. Section 1325 of the bill establishes a new part E of GEPA which consolidates most of the provisions relating to enforcement and judicial review in existing State operated programs, and which establishes a comprehensive system for enforcement by the Commissioner of the requirements relating to education programs.

New section 451 would establish an Education Appeal Board which would provide a due process hearing procedure for adverse actions taken against recipients by the Office of Education under most major Federal education programs. (Student assistance programs covered by the suspension, limitation, and termination regulations under section 497A of the Higher Education Act of 1963 would not be affected by these new provisions.)

The proceedings over which the board would have jurisdiction include—

(1) audit determinations against State or local educational agencies under certain State operated programs (section 452);

(2) withholding proceedings against recipients (other than under student assistance programs) (section 453);

(3) cease and desist orders (section 454).

New section 452 establishes procedures for recovery of audit exceptions. The provisions of this section provide explicit authority for the recovery of misspent funds. This provision would also permit the Commissioner to compromise any claim established under this procedure not in excess of $50,000 if he determines that the pratcice that resulted in a misexpenditure has been corrected.

New section 453 sets forth the Commissioner's authority to withhold Federal funds when he finds that there has been a failure to comply with the requirements of law. This provision is now contained in section 434(c) of GEPA. The new provision would give the Education Appeal Board the authority to preside over these proceedings.

New section 454 provides new authority for the Commissioner, subject to the review of the Education Appeal Board, to issue cease and desist orders where he finds that an agency is engaging in a practice under an applicable program that is not authorized by law. The orders could be enforced either by withholding any portion of the amount payable to a recipient, or by the facts being certified to the Attorney General who could bring an appropriate proceeding for enforcement of the order.

New section 455 contains provisions relating to judicial review of actions by the Education Appeal Board. These judicial review provisions are similar to those now contained in the individual program statutes.

Section 1326. This section permits school districts to consolidate parental advisory councils required under Federal laws with those required under State laws.

Section 1328. This section requires the Secretary of Commerce to compile the 1980 census in such a way as to derive data by school district for the purpose of Title I allocations.

Section 1329. This section authorizes $5 million a year for general aid for education in the Virgin Islands.

Section 1330. This section authorizes $2 million a year for teacher training programs in the outlying areas.

Section 1331. This section contains effective dates for these general administrative amendments.

Section 1401. This section contains the effective dates for all amendments in the Act.

AS REPORTED

CHANGES IN EXISTING LAW MADE BY THE BILL,

In compliance with clause 3 of rule XIII of the Rules of the House of Representatives, changes in existing law made by the bill, as reported, are shown as follows (existing law proposed to be omitted is enclosed in black brackets, new matter is printed in italic, existing law in which no change is proposed is shown in roman):

Elementary and Secondary Education Act of 1965

[TITLE I—FINANCIAL ASSISTANCE TO LOCAL EDUCATIONAL AGENCIES FOR THE EDUCATION OF CHILDREN OF LOW-INCOME FAMILIES

[DECLARATION OF POLICY

[SEC. 101. In recognition of the special educational needs of children of low-income families and the impact that concentrations of low-income families have on the ability of local educational agencies to support adequate educational programs, the Congress hereby declares it to be the policy of the United States to provide financial assistance (as set forth in the following parts of this title) to local educational agencies serving areas with concentrations of children from low-income families to expand and improve their educational programs by various means (including preschool programs) which contribute particularly to meeting the special educational needs of educationally deprived children.

[DURATION OF ASSISTANCE

[SEC. 102. During the period beginning July 1, 1973, and ending September 30, 1979, the Commissioner shall, in accordance with the provisions of this title, make payments to State educational agencies for grants made on the basis of entitlements created under this title.

[PART A—BASIC GRANTS

[Subpart 1—Grants to Local Educational Agencies

[GRANTS—AMOUNTS AND ELIGIBILITY

[SEC. 103. (a)(1) There is authorized to be appropriated for each fiscal year for the purpose of this paragraph 1 per centum of the amount appropriated for such year for payments to States under section 143(a) (other than payments under such section to jurisdictions excluded from the term "State" by this subsection, and payments pursuant to section 124), and there shall be authorized to be appropriated such additional sums as will assure at least the same level of funding under this title as in fiscal year 1973 for Guam, American Samoa, the Virgin Islands, the Trust Territory of the Pacific Islands, and to the Secretary of the Interior for payments pursuant to paragraphs (1) and (2) of subsection (d). The amount appropriated pursuant to this paragraph shall be allotted by the Commissioner (A) among Guam, American Samoa, the Virgin Islands, and the Trust Territory of the Pacific Islands according to their respective need for grants under this part, and (B) to the Secretary of the Interior in the amount necessary (i) to make payments pursuant to paragraph (1) of subsection (d), and (ii) to make payments pursuant to paragraph (2) of subsection (d). The grant which a local educational agency in Guam, American Samoa, the Virgin Islands, and the Trust Territory of the Pacific Islands is eligible to receive shall be determined pursuant to such criteria as the Commissioner determines will best carry out the purposes of this title.

[(2) In any case in which the Commissioner determines that satisfactory data for that purpose are available, the grant which a local educational agency in a State shall be eligible to receive under this subpart for a fiscal year shall (except as provided in paragraph (3)) be determined by multiplying the number of children counted under subsection (c) by 40 per centum of the amount determined under the next sentence. The amount determined under this sentence shall be the average per pupil expenditure in the State except that (A) if the average per pupil expenditure in the State is less than 80 per centum of the average per pupil expenditure in the United States, such amount shall be 80 per centum of the average per pupil expenditure in the United States, or (B) if the average per pupil expenditure in the State is more than 120 per centum of the average per pupil expenditure in the United States, such amount shall be 120 per centum of the average per pupil expenditure in the United States. In any case in which such data are not available, subject to paragraph (3), the grant for any local educational agency in a State shall be determined on the basis of the aggregate amount of such grants for all such agencies in the county or counties in which the school district of the particular agent is located, which aggregate amount shall be equal to the aggregate amount determined under the two preceding sentences for such county or counties, and shall be allocated among those agencies upon such equitable basis as may be determined by the State educational agency in accordance with basic criteria prescribed by the Commissioner.

[(3) (A) Upon determination by the State educational agency that a local educational agency in the State is unable or unwilling to provide for the special educational needs of children described in clause (C) of paragraph (1) of subsection (c), who are living in institutions for neglected or delinquent children, the State educational agency shall, if it assumes responsibility for the special educational needs of such local educational agency which is attributable to such neglected or delinquent children, but if the State educational agency does not assume such responsibility, any other State or local public agency, as determined by regulations established by the Commissioner, which does assume such responsibility shall be eligible to receive such portion of the allocation.

[(B) In the case of local educational agencies which serve in whole or in part the same geographical area, and in the case of a local educational agency which provides free public education for a substantial number of children who reside in the school district of another local educational agency, the State educational agency may allocate the amount of the grants for those agencies among them in such manner as it determines will best carry out the purposes of this title.

[(C) The grant which Puerto Rico shall be eligible to receive under this subpart for a fiscal year shall be the amount arrived at by multiplying the number of children counted under subsection (c) by 40 per centum of (i) the average per pupil expenditure in Puerto Rico or (ii) in the case where such average per pupil expenditure is more than 120 per centum of the average per pupil expenditure in the United States, 120 per centum of the average per pupil expenditure in the United States.

[(4) For purposes of this subsection, the term "State" does not include Guam, American Samoa, the Virgin Islands, and the Trust Territory of the Pacific Islands.

[(b) A local educational agency shall be eligible for a basic grant for a fiscal year under this part only if it meets the following requirements with respect to the number of children counted under subsection (c):

[(1) In any case (except as provided in paragraph (3)) in which the Commissioner determines that satisfactory data for the purpose of this subsection as to the number of such children are available on a school district basis, the number of such children in the school district of such local educational agency shall be at least ten.

[(2) In any other case, except as provided in paragraph (3), the number of such children in the county which includes such local educational agency's school district shall be at least ten.

[(3) In any case in which a county includes a part of the school district of the local educational agency concerned and the Commissioner has not determined that satisfactory data for the purpose of this subsection are available on a school district basis for all the local educational agencies for all the counties into which the school district of the local educational agency concerned extends, the eligibility requirement with respect to the number of such children for such local educational agency shall be determined in accordance with regulations prescribed by the Commissioner for the purposes of this subsection.

[(c)(1) The number of children to be counted for purposes of this section is the aggregate of (A) the number of children aged five to seventeen, inclusive, in the school district of the local educational agency from families below the poverty level as determined under paragraph (2)(A), (B) two-thirds of the number of children aged five to seventeen, inclusive, in the school district of such agency from families above the poverty level as determined under paragraph (2)(B), and (C) the number of children aged five to seventeen, inclusive, in the school district of such agency living in institutions for neglected or delinquent children (other than such institutions operated by the United States) but not counted pursuant to section 123 for the purposes of a grant to a State agency, or being supported in foster homes with public funds.

[(2)(A) For the purposes of this section, the Commissioner shall determine the number of children aged five to seventeen, inclusive, from families below the poverty level on the basis of the most recent satisfactory data available from the Department of Commerce for local educational agencies (or, if such data are not available for such agencies, for counties); and in determining the families which are below the poverty level, the Commissioner shall utilize the criteria of poverty used by the Bureau of the Census in compiling the 1970 decennial census.

[(B) For purposes of this section, the Secretary of Health, Education, and Welfare shall determine the number of children aged five to seventeen, inclusive, from families above the poverty level on the basis of the number of such children from families receiving an annual income, in excess of the current criteria of poverty, from payments under the program of aid to families with dependent children under a State plan approved under title IV of the Social Security Act; and in making such determinations the Secretary shall utilize the criteria of poverty used by the Bureau of the Census in compiling the 1970 decennial census for a nonfarm family of four in such form as those criteria have been updated by increases in the Consumer Price Index. The Secretary shall determine the number of such children and the number of children of such ages living in institutions for neglected or delinquent children, or being supported in foster homes with public funds, on the basis of the caseload data for the month of October of the preceding fiscal year (using, in the case of children described in the preceding sentence, the criteria of poverty and the form of such criteria required by such sentence which were determined for the calendar year preceding such month of October) or, to the extent that such data are not available to him before January 1 of the calendar year in which the Secretary's determination is made, then on the basis of the most recent reliable data available to him at the time of such determination.

[(C) When requested by the Commissioner, the Secretary of Commerce shall make a special estimate of the number of children of such ages who are from families below the poverty level (as determined under paragraph (A) of this subsection) in each county or school district, and the Commissioner is authorized to pay (either in advance or by way of reimbursement) the Secretary of Commerce the cost of making this special estimate. The Secretary of Commerce shall give consideration to any request of the chief executive of a State for the collection of additional census information. For purposes of this section, the Secretary shall consider all children who are in correctional institutions to be living in institutions for delinquent children.

[(d)(1) From the amount allotted for payments to the Secretary of the Interior under clause (B)(i) in the second sentence of subsection (a)(1), the Secretary of the Interior shall make payments to local educational agencies, upon such terms as the Commissioner determines will best carry out the purposes of this title, with respect to out-of-State Indian children in the elementary and secondary schools of such agencies under special contracts with the Department of the Interior. The amount of such payment may not exceed, for each such child, 40 per centum of (A) the average per pupil expenditure in the State in which the agency is located or (B) 120 per centum of such expenditure in the United States, whichever is the greater.

[(2) The amount allotted for payments to the Secretary of the Interior under clause (B)(ii) in the second sentence of subsection (a)(1) for any fiscal year shall be, as determined pursuant to criteria established by the Commissioner, the amount necessary to meet the special educational needs of educationally deprived Indian children on reservations serviced by elementary and secondary schools operated for Indian children by the Department of the Interior. Such payments shall be made pursuant to an agreement between the Commissioner and the Secretary containing such assurances and terms as the Commissioner determines will best achieve the purposes of this title. Such agreement shall contain (A) an assurance that payments made pursuant to this subparagraph will be used solely for programs and projects approved by the Secretary of the Interior which meet the applicable requirements of section 141(a) and that the Department of the Interior will comply in all other respects with the requirements of this title, and (B) provision for carrying out the applicable provisions of sections 141(a) and 142(a)(3).

[Subpart 2—State Operated Programs

[PROGRAMS FOR HANDICAPPED CHILDREN

[Sec. 121. (a) A State agency which is directly responsible for providing free public education for handicapped children (including mentally retarded, hard of hearing, deaf, speech impaired, visually handicapped, seriously emotionally disturbed, crippled, or other health impaired children who by reason thereof require special education), shall be eligible to receive a grant under this section for any fiscal year.

[(b) Except as provided in sections 124 and 125, the grant which an agency (other than the agency for Puerto Rico) shall be eligible to receive under this section shall be an amount equal to 40 per centum of the average per pupil expenditure in the State (or (1) in the case where the average per pupil expenditure in the State is less than 80 per centum of the average per pupil expenditure in the United States, of 80 per centum of the average per pupil expenditure in the United States, or (2) in the case where the average per pupil expenditure in the State is more than 120 per centum of the average pupil expenditure in the United States, of 120 per centum of the average per pupil expenditure in the United States), multiplied by the number of such children in average daily attendance, as determined by the Commissioner, at schools for handicapped children operated or supported by the State agency, including schools providing special education for handicapped children under contract or other arrangement with such State agency, in the most recent fiscal year for which satisfactory data are available. The grant which Puerto Rico shall be eligible to receive under this section shall be the amount arrived at by multiplying the number of children in Puerto Rico counted as provided in the preceding sentence by 40 per centum of (1) the average per pupil expenditure in Puerto Rico or (2) in the case where such average per pupil expenditure is more than 120 per centum of the average per pupil expenditure in the United States, 120 per centum of the average per pupil expenditure in the United States.

[(c) A State agency shall use the payments made under this section only for programs and projects (including the acquisition of equipment and, where necessary, the construction of school facilities) which are designed to meet the special educational needs of such children, and the State agency shall provide assurances to the Commissioner that each such child in average daily attendance counted under subsection (b) will be provided with such a program, commensurate with his special needs, during any fiscal year for which such payments are made.

[(d) In the case where such a child leaves an educational program for handicapped children operated or supported by the State agency in order to participate in such a program operated or supported by a local educational agency, such child shall be counted under subsection (b) if (1) he continues to receive an appropriately designed educational program and (2) the State agency transfers to the local educational agency in whose program such child participates an amount equal to the sums received by such State agency under this section which are attributable to such child, to be used for the purposes set forth in subsection (c).

[PROGRAMS FOR MIGRATORY CHILDREN

[SEC. 122. (a)(1) A State educational agency or a combination of such agencies, upon application, shall be entitled to receive a grant for any fiscal year under this section to establish or improve, either directly or through local educational agencies, programs of education for migratory children of migratory agricultural workers or of migratory fishermen. The Commissioner may approve such an application only upon his determination—

[(A) that payments will be used for programs and projects (including the acquisition of equipment and where necessary the construction of school facilities) which are designed to meet the special educational needs of migratory children of migratory agricultural workers or of migratory fishermen, and to coordinate these programs and projects with similar programs and projects in other States, including the transmittal of pertinent information with respect to school records of such children;

[(B) that in planning and carrying out programs and projects there has been and will be appropriate coordination with programs administered under part B of title III of the Economic Opportunity Act of 1964;

[(C) that such programs and projects will be administered and carried out in a manner consistent with the basic objectives of clauses (1)(B) and (3) through (12) of section 141(a); and

[(D) that, in planning and carrying out programs and projects, there has been adequate assurance that provision will be made for the preschool educational needs of migratory children of migratory agricultural workers or of migratory fishermen, whenever such agency determines that compliance with this clause will not detract from the operation of programs and projects described in clause (A) of this paragraph after considering the funds available for this purpose.

The Commissioner shall not finally disapprove an application of a State educational agency under this paragraph except after reasonable notice and opportunity for a hearing to the State educational agency.

[(2) If the Commissioner determines that a State is unable or unwilling to conduct educational programs for migratory children of migratory agricultural workers or of migratory fishermen, or that it would result in more efficient and economic administration, or that it would add substantially to the welfare or educational attainment of such children, he may make special arrangements with other public or nonprofit private agencies to carry out the purposes of this section in one or more States, and for this purpose he may use all or part of the total of grants available for any such State under this section.

[(3) For purposes of this section, with the concurrence of his parents, a migratory child of a migratory agricultural worker or of a migratory fisherman shall be deemed to continue to be such a child for a period, not in excess of five years, during which he resides in the area served by the agency carrying on a program or project under this subsection. Such children who are presently migrant, as determined pursuant to regulations of the Commissioner, shall be given priority in this consideration of programs and activities contained in applications submitted under this subsection.

[(b) Except as provided in sections 124 and 125, the total grants which shall be made available for use in any State (other than Puerto Rico) for this section shall be an amount equal to 40 per centum of the average per pupil expenditure in the State (or (1) in the case where the average per pupil expenditure in the State is less than 80 per centum of the average per pupil expenditure in the United States, of 80 per centum of the average per pupil expenditure in the United States, or (2) in the case where the average per pupil expenditure in the State is more than 120 per centum of the average per pupil expenditure in the United States, of 120 per centum of the average per pupil expenditure in the United States) multiplied by (1) the estimated number of such migratory children aged five to seventeen, inclusive, who reside in the State full time, and (2) the full-time equivalent of the estimated number of such migratory children aged five to seventeen, inclusive, who reside in the State part time, as determined by the Commissioner in accordance with regulations, except that if, in the case of any State, such amount exceeds the amount required under subsection (a), the Commissioner shall allocate such excess, to the extent necessary, to other States whose total of grants under this sentence would otherwise be insufficient for all such children to be served in such other States. The total grant which shall be made available for use in Puerto Rico shall be arrived at by multiplying the number of children in Puerto Rico counted as provided in the preceding sentence by 40 per centum of (1) the average per pupil expenditure in Puerto Rico or (2) in the case where such average per pupil expenditure is more than 120 per centum of the average per pupil expenditure in the United States, 120 per centum of the average per pupil expenditure in the United States. In determining the number of migrant children for the purposes of this section the Commissioner shall use statistics made available by the migrant student record transfer system or such other system as he may determine most accurately and fully reflects the actual number of migrant students.

[PROGRAMS FOR NEGLECTED OR DELINQUENT CHILDREN

[SEC. 123. (a) A State agency which is directly responsible for providing free public education for children in institutions for neglected or delinquent children or in adult correctional institutions shall be entitled to receive a grant under this section for any fiscal year (but only if grants received under this section are used only for children in such institutions).

[(b) Except as provided in sections 124 and 125, the grant which such an agency (other than the agency for Puerto Rico) shall be eligible to receive shall be an amount equal to 40 per centum of the average per pupil expenditure in the State (or (1) in the case where the average per pupil expenditure in the State is less than 80 per centum of the average per pupil expenditure in the United States, of 80 per centum of the average per pupil expenditure in the United States, (2) in the case where the average per pupil expenditure in the State is more than 120 per centum of the average per pupil expenditure in the United States, of 120 per centum of the average per pupil expenditure in the United States) multiplied by the number of such children in average daily attendance, as determined by the Commissioner, at schools for such children operated or supported by that agency, including schools providing education for such children under contract or other arrangement with such agency, in the most recent fiscal year for which satisfactory data are available. The grant which Puerto Rico shall be eligible to receive under this section shall be the amount arrived at by multiplying the number of children in Puerto Rico counted as provided in the preceding sentence by 40 per centum of (1) the average per pupil expenditure in Puerto Rico or (2) in the case where such average per pupil expenditure is more than 120 per centum of the average per pupil expenditure in the United States, or 120 per centum of the average per pupil expenditure in the United States.

[(c) A State agency shall use payments under this section only for programs and projects (including the acquisition of equipment and where necessary the construction of school facilities) which are designed to meet the special educational needs of such children.

[RESERVATION OF FUNDS FOR TERRITORIES

[SEC. 124. There is authorized to be appropriated for each fiscal year for purposes of each of sections 121, 122, and 123, an amount equal to not more than 1 per centum of the amount appropriated for such year for such sections for payments to Guam, American Samoa, the Virgin Islands, and the Trust Territory of the Pacific Islands under each such section. The amounts appropriated for each such section shall be allotted among Guam, American Samoa, the Virgin Islands, and the Trust Territory of the Pacific Islands according to their respective need for such grants, based on such criteria as the Commissioner determines will best carry out the purposes of this title.

[MINIMUM PAYMENTS FOR STATE OPERATED PROGRAMS

[SEC. 125. No State shall receive in any fiscal year prior to October 1, 1979, pursuant to sections 121, 122, or 123 an amount which is less than 100 per centum of the amount which that State received in the prior fiscal year pursuant to such section 121, 122, or 123, respectively.[1]

[PART B—SPECIAL INCENTIVE GRANTS

[MAXIMUM ENTITLEMENT

[SEC. 126. (a) In the case of any fiscal year ending after June 30, 1969, each State shall be entitled to a special incentive grant if such State has an effort index for the second preceding fiscal year that exceeds the national effort index for such year.

[(b) The maximum amount of a special incentive grant for which a State is eligible for any fiscal year shall be determined by multiplying the amount of $1 for each 0.01 per centum by which the effort index of that State for the second preceding fiscal year exceeds the national effort index for such year times the aggregate number of children counted for the purposes of entitled local educational agencies within such State to basic grants in accordance with sections 103(a)(2), 121, 122, and 123, except that no State shall be eligible to receive a special incentive grant under this part, in an amount in excess of 15 per centum of the total amount available for grants under this part.

[APPLICATION; USE OF FUNDS

[SEC. 127. Any State desiring the special incentive grant to which it is entitled under this part for any fiscal year shall make application therefor, in accordance with the requirements set forth in section 142, to the Commissioner. Such application shall be submitted at such time and contain such information as the Commissioner shall require by regulation and shall contain a statement of such policies and procedures as will insure that funds granted to the State under this part will be (1) made available to local educational agencies within that State which have the greatest need for assistance under this title, and (2) used, in accordance with the applicable provisions of this title, for programs and projects designed to meet the special educational needs of educationally deprived children.

[DEFINITIONS

[SEC. 128. For the purpose of this part the term "effort index" when applied to States, means the per centum expressing the ratio of expenditures from all non-Federal sources in a State for public elementary and secondary education to the total personal income in such State, and the term "national effort index" means the per centum expressing the ratio of such expenditures in all States to the total personal income in all States; and the term "State" means the fifty States and the District of Columbia.

[PART C—SPECIAL GRANTS

[ELIGIBILITY AND MAXIMUM AMOUNT OF SPECIAL GRANTS

[SEC. 131. (a) Each local educational agency in a State which is eligible for a grant under this title for any fiscal year shall be entitled to an additional grant for that fiscal year if it meets the requirements of subsection (b). The amount of such grant shall be determined in accordance with subsection (c).

[(b) (1) A local educational agency shall be entitled to a grant under this part for any fiscal year if the school district of such agency is located in a county in which—

[(A) the number of children described in paragraph (2) for such year amounts to at least 200 per centum of the average number of such children in all counties in the State in which such agency is located for that fiscal year; or

[(B) the number of children so described in such county for such year is 10,000 and amounts to 5 per centum of the total number of children in such county.

[(2) For the purposes of paragraph (1), the children counted with respect to a local educational agency shall be those children in the such county who are—

[(A) in families having an annual income of $3,000 or less; or

[(B) in families receiving an annual income in excess of $3,000 from payments under the program of aid to families with dependent children under a State plan approved under title IV of the Social Security Act; or

[(C) living in institutions for neglected or delinquent children or being supported in foster homes with public funds.

[(3) (A) Determinations with respect to numbers of children in any county under paragraph (2) shall be made by the Commissioner on the basis of the most recent satisfactory data available to him.

[(B) (i) The number of children determined with respect to one or more counties shall be allocated by the Commissioner, for the purposes of paragraph (2), among the local educational agencies with school districts located in such county or counties.

[(ii) In any case where—

[(I) two or more local educational agencies serve, in whole or in part, the same geographical area; or

[(II) a local educational agency provides free public education for a substantial number of children who reside in the school district of another local educational agency,

the Commissioner may allocate the number of children determined under this subsection among such agencies in such a manner as will best achieve the purposes of this section.

[(C) (i) For the purposes of paragraph (2), the Commissioner shall determine the number of children from families having an annual income of $3,000 or less on the basis of the most recent satisfactory data available from the Department of Commerce. At any time such data for a county are available in the Department of Commerce, such data shall be used in making calculations under this subsection.

[(ii) For the purposes of this subsection, the Secretary of Health, Education, and Welfare shall determine the number of children from families receiving an annual income in excess of $3,000 from payments under the program of aid to families with dependent children under a State plan approved under title IV of the Social Security Act and the number of children living in institutions for neglected or delinquent children or being supported in foster homes with public funds, on the basis of caseload data for the month of January of the preceding fiscal year, or to the extent that such data are not available to him before April 1 of the calendar year in which the determination is made, then on the basis of the most recent data available to him at the time of such determination. For the purposes of this subsection, the Secretary shall consider all children who are in correctional institutions to be living in institutions for delinquent children.

[(c) The amount of the grant to which a local educational agency shall be entitled for any fiscal year shall be—

[(A) the number of children determined with respect to such agency under subsection (b);

multiplied by—

[(B) 50 per centum of the average per pupil expenditure of all the local educational agencies in the State in which such agency is located.

[(d) Notwithstanding any other provision of this section, no payments for any fiscal year under this part to the local educational agencies in a single State shall exceed 12 per centum of the aggregate payments to all local educational agencies in that year under this part.

[(e)(1) The aggregate of the amount for which all local educational agencies are eligible under this part shall not exceed $75,000,000 for any fiscal year. If, for any fiscal year, such aggregate, as computed without regard to the preceding sentence, exceeds $75,000,000, the amount for which each local educational agency is eligible shall be reduced ratably until such aggregate does not exceed such limitation.

[(2) For the purpose of making payments under this part there are authorized to be appropriated not in excess of $75,000,000 for the fiscal year ending June 30, 1975.

[(f) For the purposes of this section, the term—

[(1) "State" means the fifty States and the District of Columbia; and

[(2) "children" includes all children aged 5 through 17, inclusive.

[Part D—General Provisions

[Application

[Sec. 141 (a) A local educational agency may receive a grant under this title for any fiscal year only upon application therefor approved by the appropriate State educational agency, upon its determination (consistent with such basic criteria as the Commissioner may establish)—

[(1) that payment under this title will be used for the excess costs of programs and projects (including the acquisition of equipment, payments to teachers of amounts in excess of regular salary schedules as a bonus for service in schools eligible for assistance under this title, the training of teachers, and, where necessary, the construction of school facilities and plans made or to be made for such programs, projects, and facilities) (A) which are designed to meet the special educational needs of educationally deprived children in school attendance areas having high concentrations of children from low-income families (and at the discretion of the local educational agency, in any school of such agency not located in such a school attendance area, at which the proportion of children in actual average daily attendance from low-income families is substantially the same as the proportion of such children in such an area of that agency) and (B) which are of sufficient size, scope, and quality to give reasonable promise of substantial progress toward meeting those needs and to this end involve an expenditure of not less than $2,500, except that the State educational agency may with respect to any applicant reduce the $2,500 requirement if it determines that it would be impossible, for reasons such as distance or difficulty of travel, for the applicant to join effectively with other local educational agencies for the purpose of meeting the requirement; and nothing herein shall be deemed to preclude two or more local educational agencies from entering into agreements, at their option, for carrying out jointly operated programs and projects under this title: *Provided*, That the amount used for plans for any fiscal year shall not exceed 1 per centum of the amount determined for that agency for that year pursuant to section 103 or $2,000, whichever is greater;

[(2) that the local educational agency has provided satisfactory assurance that section 141A will be complied with;

[(3) that (A) the total educational agency has provided satisfactory assurance that the control of funds provided under this title, and title to property derived therefrom, shall be in a public agency for the uses and purposes provided in this title, and that a public agency will administer such funds and property, (B) Federal funds made available under this title will be so used (i) as to supplement and, to the extent practical, increase the level of funds that would, in the absence of such Federal funds, be made available from non-Federal sources for the education of pupils participating in programs and projects assisted under this title, and (ii) in no case, as to supplant such funds from non-Federal sources, and (C) State and local funds will be used in the district of such agency to provide services in project areas which, taken as a whole, are at least comparable to services being provided in areas in such district which are not receiving funds under this title: *Provided*, That any finding of noncompliance with this clause shall not affect the payment of funds to any local educational agency until the fiscal year beginning July 1, 1972, and *Provided further*, That each local educational agency receiving funds under this title shall report on or before July 1, 1971, and on or before July 1 of each year thereafter with respect to its compliance with this clause;[1]

[(4) In the case of any project for construction of school facilities, that the project is not inconsistent with overall State plans for the construction of school facilities and that the requirements of section 433 of the General Education Provisions Act will be complied with on all such construction projects;

[(5) In the case of an application for payments for planning, (A) that the planning was or will be directly related to programs or projects to be carried out under this title and has resulted, or is reasonably likely to result in a program or project which will be carried out under this title, and (B) that planning funds are needed because of the innovative nature of the program or project or because the local educational agency lacks the resources necessary to plan adequately for programs and projects to be carried out under this title;

[(6) That effective procedures, including provisions for appropriate objective measurements of educational achievement, will be adopted for evaluating at least annually the effectiveness of the programs in meeting the special educational needs of educationally deprived children;

[(7) That the local educational agency will make an annual report and such other reports to the State educational agency, in such form and containing such information (which in the case of reports relating to performance is in accordance with specific performance criteria related to program objectives), as may be reasonably necessary to enable the State educational agency to perform its duties under this title, including information relating to the educational achievement of students participating in programs carried out under this title, and will keep such records and afford such access thereto as the State educational agency may find necessary to assure the correctness and verification of such reports;

[(8) That the local educational agency is making the application and all pertinent documents related thereto available to parents and other members of the general public and that all evaluations and reports required under paragraph (7) shall be public information;

[(9) In the case of a project for the construction of school facilities, that, in developing plans for such facilities due consideration has been given to compliance with such standards as the Secretary may prescribe or approve in order to insure that facilities constructed with the use of Federal funds under this title shall be, to the extent appropriate in view of the uses to be made of the facilities, accessible to and usable by handicapped persons;

[(10) That effective procedures will be adopted for acquiring and disseminating to teachers and administrators significant information derived from educational research, demonstration, and similar projects, and for adopting, where appropriate, promising educational practices developed through such projects;

[(11) In the case of a project for the construction of school facilities, that, in developing plans for such facilities, due consideration has been given to excellence of architecture and design, and to the inclusion of works of art (not representing more than 1 per centum of the cost of the project);

[(12) In the case of projects involving the use of education aides, the local educational agency sets forth well-developed plans providing for coordinated programs of training in which education aides and the professional staff whom they are assisting will participate together;

[(13) That, where a school attendance area does not meet the requirement of paragraph (1)(A) of this subsection for a fiscal year, or in the case of a local educational agency electing to allocate funds under section 150 where such an area does not meet the requirement of that section, but did meet the appropriate requirement in either of the two preceding fiscal years, that school attendance area shall be considered to meet the applicable criterion for that fiscal year; and

[(14) That the local educational agency shall establish an advisory council for the entire school district and shall establish an advisory council for each school of such agency served by a program or project assisted under section 143(a)(2), each of which advisory councils—

[(A) has as a majority of its members parents of the eligible children to be served,

[(B) is composed of members selected by the parents in each school attendance area,

[(C) has been given responsibility by such agency for advising it in the planning for, and the implementation and evaluation of, such programs and projects, and

[(D) is provided by such agency, in accordance with regulations of the Commissioner, with access to appropriate information concerning such programs and projects.

[(b) It is the intent of the Congress to encourage, where feasible the development for each educationally deprived child participating in a program under this title of an individualized written educational plan (maintained and periodically evaluated), agreed upon jointly by the local educational agency, a parent or guardian of the child, and when appropriate, the child.

[(c) The State educational agency shall not finally disapprove in whole or in part any application for funds under this title without first affording the local educational agency submitting the application reasonable notice and opportunity for a hearing.

[PARTICIPATION OF CHILDREN ENROLLED IN PRIVATE SCHOOLS

[SEC. 141A. (a) To the extent consistent with the number of educationally deprived children in the school district of the local educational agency who are enrolled in private elementary and secondary schools, such agency shall make provision for including special educational services and arrangements (such as dual enrollment, educational radio and television, and mobile educational services and equipment) in which such children can participate and meeting the requirements of clauses (A) and (B) of paragraph (1) of subsection (a) of section 141, paragraph (2) of subsection (a) of such section, and clauses (A) and (B) of paragraph (3) of subsection (a) of such section 141.

[(b) (1) If a local educational agency is prohibited by law from providing for the participation in special programs for educationally deprived children enrolled in private elementary and secondary schools as required by subsection (a), the Commissioner shall waive such requirement and the provisions of section 141(a)(2), and shall arrange for the provision of services to such children through arrangements which shall be subject to the requirements of subsection (a).

[(2) If the Commissioner determines that a [illegible] educational agency has substantially failed to provide for the participation on an equitable basis of educationally deprived children enrolled in private elementary and secondary schools as required by subsection (a), he shall arrange for the provision of services to such children through arrangements which shall be subject to the requirements of subsection (a), upon which determination the provisions of paragraph (a) and section 141 (a)(2) shall be waived.

[(3) When the Commissioner arranges for services pursuant to this section, he shall, after consultation with the appropriate public and private school officials, pay the cost of such services from the appropriate allocation or allocations under this title.

[(4) (A) the Commissioner shall not take any final action under this section until he has afforded the State educational agency and local educational agency affected by such action at least sixty days notice of his proposed action and an opportunity for a hearing with respect thereto on the record.

[(B) If a State or local educational agency is dissatisfied with the Commissioner's final action after a hearing under subparagraph (A) of this paragraph, it may within sixty days after notice of such action, file with the United States court of appeals for the circuit in which such State is located a petition for review of that action. A copy of the petition shall be forthwith transmitted by the clerk of the court to the Commissioner. The Commissioner thereupon shall file in the court the record of the proceedings on which he based his action, as provided in section 2112 of title 28, United States Code.

[(C) The findings of fact by the Commissioner, if supported by substantial evidence, shall be conclusive; but the court, for good cause shown, may remand the case to the Commissioner to take further evidence, and the Commissioner may thereupon make new or modified findings of fact and may modify his previous action, and shall file in the court the record of the further proceedings. Such new or modified findings of fact shall likewise be conclusive if supported by substantial evidence.

[(D) Upon the filing of such petition, the court shall have jurisdiction to affirm the action of the Commissioner or to set it aside, in whole or in part. The judgment of the court shall be subject to review by the Supreme Court of the United States upon certiorari or certification as provided in section 1254 of title 28, United States Code.

[ASSURANCES FROM STATES

[SEC. 142. (a) Any State desiring to participate under this title (except with respect to the program provided for in section 122 relating to migratory children of migratory agricultural workers) shall submit through its State educational agency to the Commissioner an application, in such detail as the Commissioner deems necessary, which provides satisfactory assurance—

[(1) that, except as provided in section 143(b), payments under this title will be used only for programs and projects which have been approved by the State educational agency pursuant to section 141(a) and which meet the applicable requirements of that section and of section 121 and that such agency will in all other respects comply with the provisions of this title, including the enforcement of any obligations imposed upon a local educational agency under section 141(a);

[(2) that such fiscal control and fund accounting procedures will be adopted as may be necessary to assure proper disbursement of, and accounting for, Federal funds paid to the State (including such funds paid by the State to local educational agencies) under this title; and

[(3) that the State educational agency will make the Commissioner (A) periodic reports (including the results of objective measurements required by section 141(a)(6) and of research and replication studies) evaluating the effectiveness of payments under this title and of particular programs assisted under it in improving the educational attainment of educationally deprived children, and (B) such other reports as may be reasonably necessary to enable the Commissioner to perform his duties under this title (including such reports as he may require to determine the amounts which the local educational agencies of that State are eligible to receive for any fiscal year), and assurance that such agency will keep such records and afford such access thereto as the Commissioner may find necessary to assure the correctness and verification of such reports.

[(b) The Commissioner shall approve an application which meets the requirements specified in subsection (a), and he shall not finally disapprove an application except after reasonable notice and opportunity for a hearing to the State educational agency.

[PAYMENT

[SEC. 143. (a)(1) The Commissioner shall, subject to the provisions of section 144, from time to time pay to each State, in advance or otherwise, the amount which it and the local educational agencies of that State are eligible to receive under this title. Such payments shall take into account the extent (if any) to which any previous payment to such State educational agency under this title (whether or not in the same fiscal year) was greater or less than the amount which should have been paid to it.

[(2) From the funds paid to it pursuant to paragraph (1) each State educational agency shall distribute to each local educational agency of the State which is not ineligible by reason of section 103(b) and which has submitted an application approved pursuant to section 141(a) the amount for which such application has been approved except that this amount shall not exceed the amount determined for that agency pursuant to section 103.

[(b) The Commissioner is authorized to pay to each State amounts equal to the amounts expended by it for the proper and efficient performance of its duties under this title (including technical assistance for the measurements and evaluations required by section 141(a)(6), except that the total of such payments in any fiscal year shall not exceed—

[(1) 1 per centum of the amount allocated to the State and its local educational agencies as determined for that year under this title; or

[(2) $150,000, or $25,000 in the case of Guam, American Samoa, the Virgin Islands, or the Trust Territory of the Pacific Islands, whichever is the greater.

[(c)(1) No payments shall be made under this title for any fiscal year to a State which has taken into consideration payments under this title in determining the eligibility of any local educational agency in that State for State aid, or the amount of that aid, with respect to the free public education of children during that year or the preceding fiscal year.

[(2) No payments shall be made under this title to any local educational agency for any fiscal year unless the State educational agency finds that the combined fiscal effort per student or the aggregate expenditures (as determined in accordance with regulations of the Commissioner) of that agency and the State with respect to the provision of free public education by that agency for the preceding fiscal year was not less than such combined fiscal effort per student or the aggregate expenditures for that purpose for the second preceding fiscal year.

[ADJUSTMENTS WHERE NECESSITATED BY APPROPRIATIONS

[SEC. 144. If the sums appropriated for any fiscal year for making the payments provided in this title are not sufficient to pay in full the total amounts which all local and State educational agencies are entitled to receive under this title for such year, the amount available for each grant to a State agency eligible for a grant under section 121, 122, or 123 shall be equal to the total amount of the grant as computed under each such section. If the remainder of such sums available after the application of the preceding sentence is not sufficient to pay in full the total amounts which all local educational agencies are entitled to receive under part A of this title for such year, the allocations to such agencies and allocations under part B shall, subject to adjustments under the next sentence, be ratably reduced to the extent necessary to bring the aggregate of such allocations within the limits of the amount so appropriated, except that entitlements under such part B shall be taken into consideration only to the extent that appropriations for such title I (excluding part C thereof) exceed $1,396,975,000 for any fiscal year and such entitlements shall not exceed $50,000,000 in any fiscal year. The allocation of a local educational agency which would be reduced under the preceding sentence to less than 85 per centum of its allocation under part A for the preceding fiscal year, shall be increased to such amount, the total of the increases thereby required being derived by proportionately reducing the allocations of the remaining local educational agencies, under the preceding sentence, but with such adjustments as may be necessary to prevent the allocation to any remaining local educational agency from being thereby reduced to less than 85 per centum of its allocation for such year. If the aggregate of the amounts to which all States are entitled under such part B exceeds $50,000,000 the entitlement of each State shall be reduced ratably until such aggregate does not exceed $50,000,000 in such fiscal year.

[In case additional funds become available for making payments under this title or that year, such reduced amounts shall be increased on the same basis that they were reduced. In order to permit the most effective use of all appropriations made to carry out this title, the Commissioner may set dates by which (1) State educational agencies must certify to him the amounts for which the applications of educational agencies have been or will be approved by the State, and (2) State educational agencies referred to in section 122 must file applications. If the maximum grant a local educational agency or an agency referred to in section 122 would receive (after any ratable reduction which may have been required under the first sentence of this section) is more than an amount which the State educational agency determines, in accordance with regulations prescribed by the Commissioner, such agency will use, the excess amount shall be made available first to educational agencies in that State. Determinations of the educational agencies to which such excess amounts shall be made available shall be made by the State educational agency in furtherance of the purposes of this title in accordance with criteria prescribed by the Commissioner which are designed to assure that such excess amounts will be made available to other eligible educational agencies with the greatest need, for the purpose of, where appropriate, redressing inequities inherent in, or mitigating hardships caused by, the application of the provisions of paragraph (2) of section 103(a) as a result of such factors as population shifts and changing economic circumstances. In the event excess amounts remain after carrying out the preceding two sentences of this section, such excess amounts shall be distributed among the other States as the Commissioner shall prescribe for use by local educational agencies in such States for the purposes of this title in such manner as the respective State educational agencies shall prescribe.

[WITHHOLDINGS

[SEC. 146. Whenever the Commissioner, after reasonable notice and opportunity for hearing to any State educational agency, finds that there has been a failure to comply substantially with any assurance set forth in the application of that State approved under section 122 or 142(b) the Commissioner shall notify the agency that further payments will not be made to the State under this title (or, in his discretion, that the State educational agency shall not make further payments under this title to specified local educational agencies affected by the failure) until he is satisfied that there is no longer any such failure to comply. Until he is so satisfied, no further payments shall be made to the State under this title, or payments by the State educational agency under this title shall be limited to local educational agencies not affected by the failure, as the case may be.

[JUDICIAL REVIEW

[SEC. 147. (a) If any State is dissatisfied with the Commissioner's final action with respect to the approval of its application submitted under section 122 or 142(b) or with his final action under section 146, such State may, within sixty days after notice of such action, file with the United States court of appeals for the circuit in which such State is located a petition for review of that action. A copy of the petition shall be forthwith transmitted by the clerk of the court to the Commissioner. The Commissioner thereupon shall file in the court the record of the proceedings on which he based his action, as provided in section 2112 of title 28, United States Code.

[(b) The findings of fact by the Commissioner, if supported by substantial evidence, shall be conclusive; but the court, for good cause shown, may remand the case to the Commissioner to take further evidence, and the Commissioner may thereupon make new or modified findings of fact and may modify his previous action, and shall file in the court the record of the further proceedings. Such new or modified findings of fact shall likewise be conclusive if supported by substantial evidence.

[(c) Upon the filing of such petition, the court shall have jurisdiction to affirm the action of the Commissioner or to set it aside, in whole or in part. The judgment of the court shall be subject to review by the Supreme Court of the United States upon certiorari or certification as provided in section 1254 of title 28, United States Code.

[NATIONAL ADVISORY COUNCIL

[SEC. 148. (a) There shall be a National Advisory Council on the Education of Disadvantaged Children (hereinafter in this section referred to as the "National Council") consisting of fifteen members appointed by the President, without regard to the provisions of title 5, United States Code, governing appointment in the competitive service, for terms of three years, except that (1) in the case of initial members, five shall be appointed for terms of one year each and five shall be appointed for terms of two years each, and (2) appointments to fill vacancies shall be only for such terms as remain unexpired. The National Council shall meet at the call of the Chairman.

[(b) The National Council shall review and evaluate the administration and operation of this title, including its effectiveness in improving the educational attainment of educationally deprived children, including the effectiveness of programs to meet their occupational and career needs, and make recommendations for the improvement of this title and its administration and operation. These recommendations shall take into consideration experience gained under this and other Federal educational programs for disadvantaged children and, to the extent appropriate, experience gained under other public and private educational programs for disadvantaged children.

[(c) The National Council shall make such reports of its activities, findings, and recommendations (including recommendations for changes in the provisions of this title) as it may deem appropriate and shall make an annual report to the President and the Congress not later than March 31 of each calendar year. Such annual report shall include a report specifically on which of the various compensatory education programs funded in whole or in part under the provisions of this title, and of other public and private educational programs for educationally deprived children, hold the highest promise for raising the educational attainment of these educationally deprived children. The President is requested to transmit to the Congress such comments and recommendations as he may have with respect to such report. Subject to section 448(b) of the General Education Provisions Act, the National Council shall continue to exist until October 1, 1979.

[TREATMENT OF EARNINGS FOR PURPOSES OF AID TO FAMILIES WITH DEPENDENT CHILDREN

[SEC. 149. (a) Notwithstanding the provisions of title IV of the Social Security Act, a State plan approved under section 402 of such Act shall provide that for a period of not less than twelve months, and may provide that for a period of not more than twenty-four months, the first $85 earned by any person in any month for services rendered to any program assisted under this title of this Act shall not be regarded (A) in determining the need of such person under such approved State plan or (B) in determining the need of any other individual under such approved State plan.

[(b) Notwithstanding the provisions of subsection (a) of this section, no funds to which a State is otherwise entitled under title IV of the Social Security Act for any period before the fourth month after the adjournment of the State's first regular legislative session which adjourns more than sixty days after enactment of the Elementary and Secondary Education Amendments of 1966, shall be withheld by reason of any action taken pursuant to a State statute which prevents such State from complying with the requirements of subsection (a) of this section.

[ALLOCATION OF FUNDS WITHIN THE SCHOOL DISTRICT OF A LOCAL EDUCATIONAL AGENCY

[SEC. 150. (a) For any fiscal year not more than 20 local educational agencies selected for the purpose of section 821(a)(5) of the Education Amendments of 1974 may elect, with the approval of the districtwide parent advisory council which is required to be established under section 141(a)(14) of this title, to allocate funds received from payments under this title on the basis of a method or combination of methods other than the method provided under section 141(a)(1)(A). Any method selected pursuant to this section shall be so designed and administered as to be free from racial or cultural discrimination.

[(b) Any local educational agency to which this section applies shall submit such reports to the Director of the National Institute of Education at such time and in such manner as the Director may reasonably require to carry out his responsibilities under section 821(a)(5) of the Education Amendments of 1974.

[PROGRAM EVALUATION

[SEC. 151. (a) The Commissioner shall provide for independent evaluations which describe and measure the impact of programs and projects assisted under this title. Such evaluations may be provided by contract or other arrangements, and all such evaluations shall be made by competent and independent persons, and shall include, whenever possible, opinions obtained from program or project participants about the strengths and weaknesses of such programs or projects.

[(b) The Commissioner shall develop and publish standards for evaluation of program or project effectiveness in achieving the objectives of this title.

[(c) The Commissioner shall, where appropriate, consult with State agencies in order to provide for jointly sponsored objective evaluation studies of programs and projects assisted under this title within a State.

[(d) The Commissioner shall provide to State educational agencies, models for evaluations of all programs conducted under this title, for their use in carrying out their functions under section 142(a), which shall include uniform procedures and criteria to be utilized by local educational agencies, as well as by the State agency in the evaluation of such programs.

[(e) The Commissioner shall provide such technical and other assistance as may be necessary to State educational agencies to enable them to assist local educational agencies in the development and application of a systematic evaluation of programs in accordance with the models developed by the Commissioner.

[(f) The models developed by the Commissioner shall specify objective criteria which shall be utilized in the evaluation of all programs and shall outline techniques (such as longitudinal studies of children involved in such programs) and methodology (such as the use of tests which yield comparable results) for producing data which are comparable on a statewide and nationwide basis.

[(g) The Commissioner shall make a report to the respective committees of the Congress having legislative jurisdiction over programs authorized by this title and the respective Committees on Appropriations concerning his progress in carrying out this section not later than February 1, 1975, and thereafter he shall report to such committees no later than February 1 of each calendar year the results of the evaluations of programs and projects required under this section, which shall be comprehensive and detailed, as up-to-date as possible, and based to the maximum extent possible on objective measurements, together with any other related findings and evaluations, and his recommendations with respect to legislation.

[(h) The Commissioner shall also develop a system for the gathering and dissemination of results of evaluations and for the identification of exemplary programs and projects, or of particularly effective elements of programs and projects, and for the dissemination of information concerning such programs and projects or such elements thereof to State and local educational agencies responsible for the design and conduct of programs and projects under this title, and to the education profession and the general public.

[(i) The Commissioner is authorized, out of funds appropriated to carry out this title in any fiscal year, to expend such sums as may be necessary to carry out the provisions of this section, but not to exceed one-half of 1 per centum of the amount appropriated for such program, of which $5,000,000 for each fiscal year ending prior to October 1, 1977, shall be available only for the surveys and studies authorized by section 821 of the Education Amendments of 1974. In carrying out the provisions of this section, the Commissioner shall place priority on assisting States and local educational agencies to conduct evaluations and shall, only as funds are available after fulfilling that purpose, seek to conduct any national evaluations of the program.

[SHORT TITLE

[SEC. 152. This title may be cited as "Title I of the Elementary and Secondary Education Act of 1965."]

TITLE I—FINANCIAL ASSISTANCE TO MEET SPECIAL EDUCATIONAL NEEDS OF CHILDREN

DECLARATION OF POLICY

SECTION 1. In recognition of the special educational needs of children of low-income families and the impact that concentrations of low-income families have on the ability of local educational agencies to support adequate educational programs, the Congress hereby declares it to be the policy of the United States to provide financial assistance (as set forth in the following parts of this title) to local educational agencies serving areas with concentrations of children from low-income families to expand and improve their educational programs by various means (including preschool programs) which contribute particularly to meeting the special educational needs of educationally deprived children. Further, in recognition of the special educational needs of children of certain migrant parents, of Indian children and of handicapped, neglected, and delinquent children, the Congress hereby declares it to be the policy of the United States to provide financial assistance (as set forth in the following parts of this title) to help meet the special educational needs of such children.

DURATION OF ASSISTANCE

SEC. 2. During the period beginning October 1, 1978, and ending September 30, 1983, the Commissioner shall, in accordance with the provisions of this title, make payments to State educational agencies for grants made on the basis of entitlements created under this title.

PART A—PROGRAMS OPERATED BY LOCAL EDUCATIONAL AGENCIES

Subpart 1—Basic Grants

GRANTS—AMOUNT AND ELIGIBILITY

SEC. 11. (a) AMOUNT OF GRANTS.—(1) There is authorized to be appropriated for each fiscal year for the purpose of this paragraph 1 per centum of the amount appropriated for such year for payments to States under part E (other than payments under such part to jurisdictions excluded from the term "State" by this subsection, and payments pursuant to section 81), and there is authorized to be appro-

priated such additional sums as will assure at least the same level of funding under this title as in fiscal year 1976 for Guam, American Samoa, the Virgin Islands, the Northern Mariana Islands, the Trust Territory of the Pacific Islands, and to the Secretary of the Interior for payments pursuant to paragraphs (1) and (2) of subsection (d). The amount appropriated pursuant to this paragraph shall be allotted by the Commissioner (A) among Guam, American Samoa, the Virgin Islands, the Northern Mariana Islands, and the Trust Territory of the Pacific Islands according to their respective need for grants under this part, and (B) to the Secretary of the Interior in the amount necessary (i) to make payments pursuant to paragraph (1) of subsection (d), and (ii) to make payments pursuant to paragraph (2) of subsection (d). The grant which a local educational agency in Guam, American Samoa, the Virgin Islands, the Northern Mariana Islands, and the Trust Territory of the Pacific Islands is eligible to receive shall be determined pursuant to such criteria as the Commissioner determines will best carry out the purposes of this title.

(2) (A) In any case in which the Commissioner determines that satisfactory data for that purpose are available, the grant which a local educational agency in a State is eligible to receive under this subpart for a fiscal year shall (except as provided in paragraph (3)) be determined by multiplying the number of children counted under subsection (c) by 40 per centum of the amount determined under the next sentence. The amount determined under this sentence shall be the average per pupil expenditure in the State except that (i) if the average per pupil expenditure in the State is less than 80 per centum of the average per pupil expenditure in the United States, such amount shall be 80 per centum of the average per pupil expenditure in the United States, or (ii) if the average per pupil expenditure in the State is more than 120 per centum of the average per pupil expenditure in the United States, such amount shall be 120 per centum of the average per pupil expenditure in the United States.

(B) In any case in which such data are not available, subject to paragraph (3), the grant for any local educational agency in a State shall be determined on the basis of the aggregate amount of such grants for all such agencies in the county or counties in which the school district of the particular agency is located, which aggregate amount shall be equal to the aggregate amount determined under subparagraph (A) sentences for such county or counties, and shall be allocated among those agencies upon such equitable basis as may be determined by the State educational agency in accordance with the basic criteria prescribed by the Commissioner.

(C) In States in which a large number of local educational agencies are located in more than one county, the State educational agency may apply to the Commissioner for authority during any particular fiscal year to make the allocations under this subpart directly to local educational agencies without regard to the counties in which they exist. If the Commissioner grants this authority to a State educational agency for a particular year, the agency must agree that these allocations will be made using precisely the same factors for determining grants as those which are used under this subpart and that a procedure will be established through which local educational agencies dissatisfied with

the determinations made by the agency may appeal directly to the Commissioner for a final determination.

(3)(A) Upon determination by the State educational agency that a local educational agency in the State is unable or unwilling to provide for the special educational needs of children described in subsection (c)(1)(C) who are living in institutions for neglected or delinquent children, the State educational agency shall, if it assumes responsibility for the special educational needs of such children, be eligible to receive the portion of the allocation to such local educational agency which is attributable to such neglected or delinquent children, but if the State educational agency does not assume such responsibility, any other State or local public agency, as determined by regulations established by the Commissioner, which does assume responsibility shall be eligible to receive such portion of the allocation.

(B) In the case of local educational agencies which serve in whole or in part the same geographical area, and in the case of a local educational agency which provides free public education for a substantial number of children who reside in the school district of another local educational agency, the State educational agency may allocate the amount of the grants for those agencies among them in such manner as it determines will best carry out the purposes of this title.

(C) For each fiscal year, the Commissioner shall determine the percentage which the average per pupil expenditure in Puerto Rico is of the lowest average per pupil expenditure of any of the fifty States. The grant which Puerto Rico shall be eligible to receive under this subpart for a fiscal year shall be the amount arrived at by multiplying the number of children counted under subsection (c) for Puerto Rico by the product of—

(i) the percentage determined under the preceding sentence, and

(ii) 32 per centum of the average per pupil expenditure in the United States.

(D)(i) From any amount made available for this subpart for any fiscal year in excess of the amount made available for this subpart for the fiscal year ending September 30, 1979, there shall be allotted to each State an amount which bears the same ratio to such excess as the product of—

(I) the number of children in such State aged five to seventeen, inclusive, from families below 50 per centum of the median national income for four-person families from the 1975 survey of income and education conducted by the Bureau of the Census, multiplied by—

(II) 40 per centum of the amount determined under the second sentence of paragraph (2)(A) (or 40 per centum of the product determined under subparagraph (C)(i) and (ii) of this paragraph in the case of Puerto Rico),

bears to the sum of such products for all the States.

(ii) In any case in which the Commissioner finds that a State's percentage decrease in children described in subdivision (I) exceeds 25 percent between the 1970 decennial census, as adjusted, and the 1975 survey of income and education, the Commissioner shall allocate funds based on the most current valid data available or based on a resurvey of the affected State by the Bureau of the Census.

(iii) From the amount allotted to each State under division (i), the amount which each local educational agency in that State shall be eligible to receive under this subparagraph shall be an amount which bears the same ratio to the total amount allotted to such State as the amount such local educational agency receives under paragraph (2) bears to the total amount of funds made available to local educational agencies in such State under such paragraph.

(4) For purposes of this subsection, the term "State" does not include Guam, American Samoa, the Virgin Islands, and the Northern Mariana Islands, and the Trust Territory of the Pacific Islands.

(b) Minimum Number of Children To Qualify.—A local educational agency shall be eligible for a basic grant for a fiscal year under this subpart only if it meets the following requirements with respect to the number of children counted under subsection (c):

(1) In any case (except as provided in paragraph (3)) in which the Commissioner determines that satisfactory data for the purpose of this subsection as to the number of such children are available on a school district basis, the number of such children in the school district of such local educational agency shall be at least ten.

(2) In any other case, except as provided in paragraph (3), the number of such childern in the county which includes such local educational agency's school district shall be at least ten.

(3) In any case in which a county includes a part of the school district of the local educational agency concerned and the Commissioner has not determined that satisfactory data for the purpose of this subsection are available on a school district basis for all the local educational agencies for all the counties into which the school district of the local educational agency concerned extends, the eligibility requirement with respect to the number of such children for such local educational agency shall be determined in accordance with regulations prescribed by the Commissioner for the purposes of this subsection.

(c) Children To Be Counted.—(1) The number of children to be counted for purposes of this section, other than for subsection (a)(3)(D), is the aggregate of (A) the number of children aged five to seventeen, inclusive, in the school district of the local educational agency from families below the poverty level as determined under paragraph (2)(A), (B) the number of children aged five to seventeen, inclusive, in the school district of such agency from families above the poverty level as determined under paragraph (2)(B), except that, for the fiscal year ending September 30, 1979, such number shall be reduced by one-third, and (C) the number of children aged five to seventeen, inclusive, in the school district of such agency living in institutions for neglected or delinquent children (other than such institutions operated by the United States) but not counted pursuant to subpart 3 of part B for the purposes of a grant to a State agency, or being supported in foster homes with public funds.

(2)(A) For the purposes of this subsection, the Commissioner shall determine the number of childern aged five to seventeen, inclusive, from families below the poverty level on the basis of the most recent satisfactory data available from the Department of Commerce for local educational agencies (or, if such data are not available for such

agencies, for counties); and in determining the families which are below the poverty level, the Commissioner shall utilize the criteria of poverty used by the Bureau of the Census in compiling the 1970 decennial census.

(B) For purposes of this subsection, the Secretary shall determine the number of children aged five to seventeen, inclusive, from families above the poverty level on the basis of the number of such children from families receiving an annual income, in excess of the current criteria of poverty, from payments under the program of aid to families with dependent children under a State plan approved under title IV of the Social Security Act; and in making such determinations the Secretary shall utilize the criteria of poverty used by the Bureau of the Census in compiling the 1970 decennial census for a nonfarm family of four in such form as those criteria have been updated by increases in the Consumer Price Index. The Secretary shall determine the number of such children and the number of children of such ages living in institutions for neglected or delinquent children, or being supported in foster homes with public funds, on the basis of the caseload data for the month of October of the preceding year (using, in the case of children described in the preceding sentence, the criteria of poverty and the form of such criteria required by such sentence which were determined for the calendar year preceding such month of October) or, to the extent that such data are not available to him before January of the calendar year in which the Secretary's determination is made, then on the basis of the most recent reliable data available to him at time of such determination.

(C) When requested by the Commissioner, the Secretary of Commerce shall make a special estimate of the number of children of such ages who are from families below the poverty level (as determined under paragraph (A) of this subsection) in each county or school district, and the Commissioner is authorized to pay (either in advance or by way of reimbursement) the Secretary of Commerce the cost of making this special estimate. The Secretary of Commerce shall give consideration to any request of the chief executive of a State for the collection of additional census information. For purposes of this section, the Secretary shall consider all children who are in correctional institutions to be living in institutions for delinquent children.

(d) PROGRAM FOR INDIAN CHILDREN.—(1) From the amount allotted for payments to the Secretary of the Interior under clause (B)(i) in the second sentence of subsection (a)(1), the Secretary of the Interior shall make payments to local educational agencies, upon such terms as the Commissioner determines will best carry out the purposes of this title, with respect to out-of-State Indian children in the elementary and secondary schools of such agencies under special contracts with the Department of the Interior. The amount of such payment may not exceed, for each such child, 40 per centum of (A) the average per pupil expenditure in the State in which the agency is located or (B) 120 per centum of such expenditure in the United States, whichever is the greater.

(2) The amount allotted for payments to the Secretary of the Interior under clause (B)(ii) in the second sentence of subsection (a)(1) for any fiscal year shall be, as determined pursuant to criteria established by the Commissioner, the amount necessary to meet the

special educational needs of educationally deprived Indian children on reservations serviced by elementary and secondary schools operated for Indian children by the Department of the Interior. Such payment shall be made pursuant to an agreement between the Commissioner and the Secretary of the Interior containing such assurances and terms as the Commissioner determines will best achieve the purposes of this title. Such agreement shall contain (A) an assurance that payments made pursuant to this subparagraph will be used solely for programs and projects approved by the Secretary of the Interior which meet the applicable requirements of subpart 3 of this part and that the Department of the Interior will comply in all other respects with the requirements of this title, and (B) provision for carrying out the applicable provisions of subpart 3 of this part and sections 121 and 122.

TREATMENT OF EARNINGS FOR PURPOSES OF AID TO FAMILIES WITH DEPENDENT CHILDREN

SEC. 12. Notwithstanding the provisions of title IV of the Social Security Act, a State plan approved under section 402 of such Act shall provide that for a period of not less than twelve months, and may provide that for a period of not more than twenty-four months, the first $85 earned by any person in any month for services rendered to any program assisted under this title shall not be regarded (1) in determining the need of such person under such approved State plan or (2) in determining the need for any other individual under such approved State plan.

Subpart 2—Special Grants

INCENTIVE GRANTS

SEC. 21. (a) ELIGIBILITY.—Each local educational agency which is eligible to receive a grant under this title for any fiscal year shall be entitled to an additional grant under this section for that fiscal year if it is located in a State which has in effect for that fiscal year a State program for educationally deprived children which meets the requirement of section 41(b) and under which not less than 50 per centum of the funds expended for such program in any school district of any local educational agency in the State in the fiscal year preceding any fiscal year in which the State receives a payment under this section are expended in school attendance areas of such local educational agencies having high concentrations of children who are from low-income families.

(b) AMOUNT OF GRANTS.—(1) Except as provided in paragraph (3), the aggregate amount to which the local educational agencies in a State are entitled under this section for any fiscal year shall be 50 per centum of the amount of State funds expended, in the most recent fiscal year for which data are available, under a State program satisfying the requirements of subsection (a).

(2) The amount of the additional grant for each local educational agency in a State under this section for any fiscal year shall bear the same ratio to the amount allocated to such State under subsection (c) of this section as the amount allocated to such local educational agency

under section 11 of this title for such fiscal year bears to the aggregate amount allocated to all local educational agencies in the State under section 11 for such fiscal year.

(3) The aggregate amount which the local educational agencies in a State shall be eligible to receive under this section for any fiscal year shall not exceed 10 per centum of the aggregate amount which all local educational agencies in such State are eligible to receive under section 11 of this title for such fiscal year.

(4) Each State which desires to receive payments under this section shall develop a system for determining the data required by subsection (a) and paragraph (1) of this subsection relating to the amount of State funds expended under the State program referred to in such subsection or paragraph. The State shall submit to the Commissioner such information as the Commissioner may request concerning such system.

(c) Payments; Use of Funds.—(1) Except as provided in paragraph (3), the Commissioner shall pay to each State for each fiscal year the aggregate amount to which the local educational agencies in such State are entitled under subsection (b) after any ratable reductions under subsection (e).

(2) The total amount to which the local educational agencies in a State are entitled under this section for any fiscal year shall be added to the amount paid to such State under section 141 for such year. From the amount paid to it under this subsection, the State shall distribute to each local educational agency of the State the amount of its additional grant as determined under subsection (b)(2).

(3) Where the expenditures made by a State in accordance with subsection (a) in a fiscal year equal or exceed expenditures in the preceding fiscal year, the amount paid to such State under this section shall, subject to subsection (e), not be less than the amount paid to such State under this section in the preceding fiscal year, and the total of any increases required under this paragraph shall be derived by proportionately reducing the amount paid to States which were not entitled to a payment under this section in the preceding fiscal year, except that the amount paid to a State under this section for any fiscal year shall not exceed the maximum amount to which such State is entitled for such fiscal year under paragraph (1) of subsection (b).

(4) The amount paid to a local educational agency under this part shall be used by such agency for activities undertaken pursuant to its application submitted under section 31 and shall be subject to all other requirements in subpart 3 of part A of this title.

(d) Authorization of Appropriations.—There are authorized to be appropriated for purposes of this section such sums as may be necessary for fiscal year ending September 30, 1980, and for the three succeeding fiscal years.

(e) Ratable Reductions.—If the sums appropriated pursuant to subsection (d) for a fiscal year are not sufficient to pay in full the total amounts which all local educational agencies are entitled to receive under this section, the amount to be paid such agencies shall be ratably reduced to the extent necessary to bring such payments within the limits of the amount so appropriated. In case additional funds become available for making payments under this section for that year, such reduced amounts shall be increased on the same basis that they were reduced.

GRANTS FOR LOCAL EDUCATIONAL AGENCIES LOCATED IN COUNTIES WITH ESPECIALLY HIGH CONCENTRATIONS OF CHILDREN FROM LOW-INCOME FAMILIES

SEC. 22. (a) PURPOSE.—It is the purpose of this section to provide additional assistance to local educational agencies in counties with especially high concentrations of children from low-income families to enable local educational agencies in such counties to provide more effective programs of instruction, especially in the basic skills of reading, writing, and mathematics, to meet the special educational needs of educationally deprived children.

(b) ELIGIBILITY FOR AND AMOUNT OF SPECIAL GRANTS.—(1) Each county in a State other than Guam, American Samoa, the Virgin Islands, the Northern Mariana Islands, and the Trust Territory of the Pacific Islands, which is eligible for a grant under this title for any fiscal year shall be entitled to an additional grant under this section for such fiscal year if—

(A) the number of children counted under section 11(c) for local educational agencies in such county for the preceding fiscal year exceeds five thousand, or

(B) the number of children counted under section 11(c) exceeds 20 per centum of the total number of children aged five to seventeen, inclusive, in the school districts of local educational agencies in such county in such fiscal year.

(2) For each county in which there are local educational agencies eligible to receive an additional grant under this section for any fiscal year the Commissioner shall determine the product of—

(A) the number of children in excess of five thousand counted under section 11(c) for the preceding fiscal year or the number of children counted under such section in excess of 20 per centum of the total number of children aged five to seventeen, inclusive, in the school districts of local educational agencies in such county for such preceding fiscal year, whichever is greater, and

(B) the average per pupil expenditure determined for those agencies under the second sentence of section 11(a)(2)(A) for the fiscal year for which the determination is being made.

(3) The amount of the additional grant to which an eligible county is entitled under this section for any fiscal year shall be an amount which bears the same ratio to the amount appropriated under subsection (d) for such fiscal year as the product determined under paragraph (2) for such county for such fiscal year bears to the sum of such products for all counties in the United States for such fiscal year.

(4) For the purposes of this section, the Commissioner shall determine the number of children counted under section 11(c) for any county, and the total number of children aged five to seventeen, inclusive, in school districts of local educational agencies in such county, on the basis of the most recent satisfactory data available at the time the entitlement of such county is determined under section 11.

(5) Funds allocated to counties under this section shall be allocated by the State educational agency among the several local educational agencies whose school districts lie (in whole or in part) within the county on the basis of the current distribution in the county of chil-

dren aged five to seventeen, inclusive, from low-income families (using a poverty level selected by the State educational agency consistent with the purposes of this title) as determined on the basis of the available data which such State educational agency deems best to reflect the current distribution in the county of children aged five to seventeen, inclusive, from low-income families.

(c) Payments; Use of Funds.—(1) The total amount to which the counties in a State are entitled under this section for any fiscal year shall be added to the amount paid to such State under section 141 for that year. From the amount paid to it under this section, the State shall distribute to local educational agencies in each county of the State the amount (if any) to which they are entitled under this section.

(2) The amount paid to a local educational agency under this section shall be used by such agency for activities undertaken pursuant to its application submitted under section 31 and shall be subject to the other requirements in subpart 3 of this part.

(d) Appropriations.—There are authorized to be appropriated for the purposes of this section $400,000,000 for fiscal year 1979, and such sums as may be necessary for the four succeeding fiscal years.

Subpart 3—Program Requirements and Applications

APPLICATION

Sec. 31. A local educational agency may receive a grant under this title for any fiscal year if it has on file with the State educational agency a current application, approved by the State educational agency, describing the programs and projects to be conducted with assistance provided under this title for a period of not to exceed three fiscal years, including the fiscal year for which the grant is to be made. Such an application may be amended at any time to describe changes in or additions to the activities originally set forth in the application. An application or amendment thereto shall be approved by the State educational agency upon its determination that the application provides for the use of such funds in a manner which meets the requirements of this subpart and is consistent with the assurances contained in the general applicaton required by section 436 of the General Education Provisions Act, subject to such basic criteria as the Commissioner may prescribe.

DESIGNATING SCHOOL ATTENDANCE AREAS

Sec. 32. (a) General Provisions.—(1) Except as provided in subsections (b), (c), (d), and (e) of this section, a local educational agency shall use funds received under this title in school attendance areas having high concentrations of children from low-income families (hereinafter referred to as "eligible school attendance areas"), and where funds under this title are insufficient to provide programs and projects for all educationally deprived children in eligible school attendance areas, a local educational agency shall annually rank its eligible school attendance areas from highest to lowest, according to relative degree of concentration of children from low-income families.

The same measure of low-income, which shall be chosen by the local educational agency and which may be a composite of several indicators, shall be used with respect to all such areas, both to identify the areas having high concentrations of children from low-income families and to determine the ranking of each area. A local educational agency may carry on a program or project assisted under this title in an eligible school attendance area only if it also carries on such program or project in all other eligible school attendance areas which are ranked higher under the first sentence, except that any school attendance area in which at least 20 per centum of the children are from low-income families shall be designated as an eligible school attendance area.

(2) Notwithstanding the provisions of paragraph (1) in the selection of eligible school attendance areas, a local educational agency may choose to rank all its school attendance areas as provided in paragraph (1) and also rank all its school attendance areas according to educational deprivation, and then serve all its school attendance areas ranked according to paragraph (1) in the order of their ranking under such paragraph unless another school attendance area ranked according to education deprivation has a substantially greater or a substantially greater proportion of educationally deprived children, in which case such school attendance area may be served before service is provided to other school attendance areas ranged pursuant to paragraph (1) which have a substantially smaller number or substantially smaller percentage of educationally deprived children. In the event that a local educational agency chooses to exercise the option provided under this paragraph, it shall not serve any more school attendance areas than the number identified pursuant to paragraph (1).

(b) Use of Enrollment Data in Certain Schools.—A local educational agency may use funds received under this title for educationally deprived children who are in a school of such agency which is not located in an eligible school attendance area, but at which the proportion of children in actual average daily attendance who are from low-income families is substantially the same as the proportion of such children in such an area of that agency (hereinafter referred to as an "eligible school").

(c) Continuation of Eligibility for Certain School Attendance Areas or Schools.—An eligible school attendance area or an eligible school may be designated a project area under subsection (a) or a project school under subsection (b) for a fiscal year, even though it does not qualify under such subsections, if such area or school was so designated in either of the two preceding fiscal years.

(d) Lower Ranked School Attendance Areas or Schools Having Substantially Greater Incidences of Educationally Deprived Children Than Higher Ranked Areas or Schools.—The Commissioner shall issue regulations providing for an exception to subsection (a) permitting children in lower ranked eligible school attendance areas or eligible schools having substantially greater incidences of educational deprivation than areas or schools ranked higher under subsections (a) or (b) to receive assistance before such children in higher ranked areas or schools receive such assistance.

(e) Skipping Higher Ranked School Attendance Areas or Schools Receiving Services of the Same Nature and Scope From Non-Federal Sources.—The Commissioner shall issue regulations providing for an exception to subsection (a) or (b) permitting local educational agencies, in providing services under this title, to skip higher ranked eligible school attendance areas or eligible schools receiving, from non-Federal funds, services of the same nature and scope as would otherwise be provided under this title.

CHILDREN TO BE SERVED

Sec. 33. (a) General Provisions.—Except as provided in subsections (b), (c), and (d) of this section and section 43, a local educational agency shall use funds received under this title for educationally deprived children, identified in accordance with section 34(b) as having the greatest need for special assistance, in school attendance areas or schools satisfying the requirements of section 32.

(b) Continuation of Eligibility for Educationally Deprived Children Who Are No Longer in Greatest Need of Assistance.—Where for a fiscal year, an educationally deprived child in a school attendance area or school satisfying the requirements of section 32, does not meet the requirements of subsection (a) requiring that he be in greatest need of special assistance, but did meet such requirement in any previous year, and is still educationally deprived, that child may participate in a program or project assisted under this title for the current fiscal year.

(c) Continuation of Eligibility for Educationally Deprived Children Transferred to Ineligible Areas in the Same Year.—Educationally deprived children who begin participation in a program or project assisted under this title, in accordance with subsections (a) and (b) but who, in the same school year, are transferred to a school attendance area or school not receiving funds under this title, may, if the local agency so determines, continue to participate in a program or project funded under this title for the duration of that same school year.

(d) Skipping Children Determined To Be in Greatest Need of Assistance Who Are Receiving Services of the Same Nature and Scope From Non-Federal Sources.—The Commissioner shall issue regulations providing for an exemption to subsection (a) permitting local educational agencies, in providing services under this title, to skip educationally deprived children in greatest need of assistance who are recieving, from non-Federal sources, services of the same nature and scope as would otherwise be provided under this title.

REQUIREMENTS FOR DESIGN AND IMPLEMENTATION OF PROGRAMS

Sec. 34. (a) Purpose of Program.—A local educational agency may use funds received under this title only for programs and projects which are designed to meet the special educational needs of the children referred to in section 33. Such programs and projects may include the acquisition of equipment, payments to teachers of amounts in excess of regular salary schedules as a bonus for service in schools serving project areas or in project schools, the training of teachers, and, where *necessary, the construction of school facilities, and planning for such programs and projects.*

(b) Assessment of Educational Needs.—A local educational agency may receive funds under this title only if it makes an assessment of educational needs each year to (1) identify educationally deprived children and to select those educationally deprived children who have the greatest need for special assistance; (2) identify the general instructional areas on which the program will focus; and (3) determine the special educational needs of participating children with specificity sufficient to facilitate development of high-quality programs and projects.

(c) Planning.—A local educational agency may use funds received under this title for planning only if (1) the planning relates directly to programs or projects to be assisted under this title and has resulted, or is reasonably likely to result, in a program or project to be assisted under this title, and (2) such funds are needed because of the innovative nature of the program or project or because such agency lacks the resources necessary to plan adequately for programs and projects to be assisted under this title. The amount a local educational agency may use for plans for any fiscal year may not exceed 1 per centum of the amount determined for that agency for that year pursuant to section 11 or $2,000, whichever is greater.

(d) Sufficient Size, Scope, and Quality.—A local educational agency may use funds received under this title only for programs and projects which are of sufficient size, scope, and quality to give reasonable promise of substantial progress toward meeting the special educational needs of the children being served, and to his end such programs and projects must involve an expenditure of not less than $2,500, except that a State educational agency may reduce such $2,500 requirement for a local educational agency if it determines that it would be impossible, for reasons such as distance or difficulty of travel, for such local educational agency to join effectively with other local educational agencies for the purpose of meeting the requirement.

(e) Coordination With Other Programs.—(1) A local educational agency may receive funds under this title only if it demonstrates that, in the development of its application, it has taken into consideration benefits and services which are or may be available through other public and private agencies, organizations, or individuals. The local educational agency shall also demonstrate that in order to avoid duplication of effort to ensure that all programs and projects complement each other, it has considered suggestions and offers of assistance made by other agencies which may aid in carrying out or making more effective the program or project for which the application is made.

(2) A local educational agency may use funds received under this title for health, social, or nutrition services for participating children under this title only if the local educational agency has requested from the State educational agency assistance in locating and utilizing other Federal and State programs to provide such services.

(f) Evaluations.—A local educational agency may receive funds under this title only if—

(1) effective procedures are adopted for evaluating at least once every three years the effectiveness of programs under this title in

meeting the special educational needs of educationally deprived children;

(2) such evaluations include, during each three-year period, the collection and analysis of data relating to the degree to which programs assisted under this title have achieved their goals, including the requirements of section 40, and also include objective measurements of educational achievement in basic skills over at least a twelve-month period in order to determine whether regular school year programs have sustained effects over the summer; and

(3) the evaluations address the purposes of the programs, including those required by section 40, and that the results of those evaluations will be utilized in planning for and improving projects and activities carried out under this title in subsequent years.

(g) INFORMATION DISSEMINATION.—A local educational agency may receive funds under this title only if effective procedures are in existence for acquiring and disseminating to teachers and administrators significant information derived from educational research, demonstration, and similar projects, and for adopting, where appropriate, promising educational practices developed through such projects.

(h) TEACHER PARTICIPATION.—A loal educational agency may receive funds under this title only if teachers in schools participating in programs assisted under this title have been involved in planning for those programs and will be involved in the evaluation thereof.

(i) PARENT PARTICIPATION.—A local educational agency may receive funds under this title only if parents of children participating in programs assisted under this title are permitted to participate in the establishment of such programs and are informed of, and permitted to make recommendations with respect to, the instructional goals of the program and the progress of their children in such program, and such parents are afforded opportunities to assist their children in achieving such goals.

(j) SUSTAINING GAINS.—A local educational agency may receive funds under this title only if in developing programs to be assisted under this title, the local educational agency will give due consideration to the inclusion of components designed to sustain the achievements of children beyond the school year in which the program is conducted, through such means as summer programs and intermediate and secondary level programs.

(k) TRAINING OF EDUCATION AIDES.—A local educational agency may receive funds under this title for programs and projects involving education aides, including volunteers, only if it has in effect well-developed plans providing for coordinated programs of training in which education aides, including volunteers, and the professional staff whom they are assisting will participate together.

(l) CONTROL OF FUNDS.—A local educational agency may receive funds under this title only if control of such funds, and title to property derived therefrom, is in a public agency for the uses and purposes provided in this title, and only if a public agency will administer such funds and property.

(m) CONSTRUCTION.—A local educational agency may use funds received under this title for projects for construction of school facilities only if—

(1) the project is not inconsistent with overall State plans for the construction of school facilities and the requirements of section 433 of the General Education Provisions Act are complied with on all such projects.

(2) in developing plans for such facilities due consideration has been given to compliance with such standards as the Secretary may prescribe or approve in order to ensure that facilities constructed with the use of Federal funds under this title are, to the extent appropriate in view of the uses to be made of the facilities, accessible to and usable by, handicapped persons, and

(3) in developing plans for such facilities, due consideration has been given to excellence of architecture and design, and inclusion of works of art (not representing more than 1 per centum of the cost of the project).

(n) Jointly Operated Programs.—Two or more local educational agencies may, at their option, enter into an agreement for carrying out jointly operated programs and projects assisted under this title.

PARENTAL INVOLVEMENT

Sec. 35. (a) Establishment of Advisory Councils.—(1) A local educational agency shall describe in its application for funds under this title how parents of students participating in projects under this title at schools having fewer than one full-time equivalent staff member hired with funds made available under this title will be involved in the planning, implementation, and evaluation of the project.

(2) A local educational agency may receive funds under this title only if it establishes an advisory council for its entire school district and an advisory council for each project area or project school to which is assigned at least one full-time equivalent staff member hired with funds made available under this title. Each such advisory council shall (A) have as a majority of its members parents of the children eligible to be served, and (B) be composed of members elected by the parents in each school attendance area.

(3) A local educational agency may receive funds under this title only if the advisory council established pursuant to paragraph (2) for each project area or project school to which is assigned at least two full-time equivalent staff members hired with funds made available under this title—

(A) is composed of not less than five members;

(B) meets at least four times per year at locations chosen by such council; and

(C) is composed of members who are elected for terms of not less than one nor more than three years and who may be eligible for re-election.

(4) Any individual who is a teacher at a school serving a project area or parent of a child residing in an eligible school attendance area or attending an eligible school shall be eligible to be elected as a member of the districtwide advisory councils established pursuant to paragraph (2), but nothing in this sentence shall preclude the eligibility of other individuals. No individual who is a teacher at a project school or a school serving a project area shall be ineligible to be elected

as a member of a districtwide or project area or school advisory council on the basis of residency outside such area or district.

(b) Responsibilities of Advisory Councils.—Each local educational agency shall give each advisory council which it establishes under subsection (a) responsibility for advising it in planning for, and implementation and evaluation of, its programs and projects assisted under this title.

(c) Access to Information.—(1) Each local educational agency shall provide to each member of an advisory council established by such agency under subsection (a) a copy of the text of this title, and a copy of any Federal and State regulations, policies, and guidelines pertaining to this title.

(2) Each local educational agency shall provide to each advisory council established by such agency under subsection (a) access to appropriate documents prepared on behalf of or for the State educational agency or the Federal Government.

(d) Training of Advisory Council Members.—Each application for funding under this title submitted by a local educational agency shall contain a description of a program of training for advisory council members, established by the local educational agency in full consultation with the members of the advisory councils established under subsection (a).

(e) Assessment of Parental Involvement.—The National Institute of Education shall describe and assess the effects of parental involvement, including involvement through parent advisory councils, on the operation of programs under this title and eligible schools under this title, in a variety of settings including both urban and rural areas, including the effects of such involvement on school governance, school finance, and student achievement.

FUNDS ALLOCATION

Sec. 36. (a) Maintenance of Effort.—(1) Except as provided in paragraph (2), a local educational agency may receive funds under this title for any fiscal year only if the State educational agency finds that the combined fiscal effort per student or the aggregate expenditures (as determined in accordance with regulations of the Commissioner) of such agency and the State with respect to the provision of free public education by such agency for the preceding fiscal year was not less than such combined fiscal effort per student or the aggregate expenditures for that purpose for the second preceding fiscal year.

(2) The Commissioner may waive, for one fiscal year only, the requirements of this subsection if he determines that such a waiver would be equitable due to exceptional and unforeseen circumstances such as a natural disaster or a precipitous and unforeseen decline in the financial resources of the local educational agency. In any case in which a waiver under this paragraph is granted, the Commissioner shall reduce the amount of Federal payment for the program affected for the current fiscal year in the exact proportion to which the amount expended (either on an average per pupil or aggregate basis) was less than the amount required by paragraph (1). No level of funding per-

mitted under such a waiver may be used as the basis for computing the fiscal effort required, under paragraph (1), for years subsequent to the year covered by such waiver; such fiscal effort shall be computed on the basis of the level of funding which would, but for such waiver, have been required.

(3) The Commissioner shall establish objective criteria of general applicability to carry out the waiver authority contained in this subsection.

(b) Use of Funds Limited to "Excess Costs".—Subject to the provisions of section 41, a local educational agency may use funds received under this title only for the excess costs of programs and projects referred to in section 33(a). As used in this subsection, the term "excess costs" means those costs directly attributable to programs and projects which exceed the average per pupil expenditure of a local educational agency in the most recent year for which satisfactory data are available for pupils in the grade or grades included in such programs or projects.

(c) Federal Funds To Supplement, Not Supplant Regular Non-Federal Funds.—A local educational agency may use funds received under this title only so as to supplement and, to the extent practical, increase the level of funds that would, in the absence of such Federal funds, be made available from regular non-Federal sources and from non-Federal sources for State phase-in programs described in section 41(d) for the education of pupils participating in programs and projects assisted under this title, and in no case may such funds be so used as to supplant such funds from such non-Federal sources.

(d) Federal Funds Required To Supplement, Not Supplant Non-Federal Funds for Certain Special State and Local Programs.—(1) Subject to the provisions of section 42, a local educational agency may use funds under this title only so as to supplement and, to the extent practical, increase the level of funds that would, in the absence of such Federal funds, be made available from non-Federal sources for each of the special programs described in subsections (b) and (c) of section 41 for the education of educationally deprived children, in the aggregate, in eligible school attendance areas or attending eligible schools and in no case, so as to supplant such funds from non-Federal sources.

(2) It shall not be considered a violation of this subsection for a local educational agency, in carrying out special programs described in section 41(a), to take into consideration funds made available under this title, and to coordinate such special programs with programs using such Federal funds, provided that educationally deprived children, in the aggregate, in eligible school attendance areas or attending eligible schools, receive at least the same level of such special State and local funds that would have been made available to such children in the absence of funds under this title. For purposes of this subsection, the level of funds that, in the absence of funds under this title, would have been made available to such children shall be determined by reference to a plan for distributing such special funds which is based on objective criteria of need that do not discriminate against educationally deprived children, in the aggregate, in eligible school

attendance areas or attending eligible schools. The objective criteria chosen by the local educational agency shall prescribe, with particularity, the children as well as the schools, grade-spans, or school attendance areas eligible for assistance and the method for selecting the particular children who will receive assistance under such special State or local program and the schools or grade-spans which such children attend or the school attendance areas in which such children reside. The criteria for selecting children, schools, grade-spans, and school attendance areas for participation shall be either educational need, a reasonable proxy for educational need, level of poverty, or a combination of such factors. Educationally deprived children residing in eligible school attendance areas or attending eligible schools, satisfying such objective criteria, must receive assistance under either this title or under such special State or local program before any child who does not satisfy such criteria receives such assistance.

(e) Comparability of Services.—Subject to the provisions of section 41, a local educational agency may receive funds under this title only if State and local funds will be used in the district of such agency to provide services in project areas which, taken as a whole, are at least comparable to services being provided in areas in such district which are not receiving funds under this title. Where, under regulations of the Commissioner, all school attendance areas in the district of the agency are designated as project areas, the agency may receive such funds only if State and local funds are used to provide services which, taken as a whole, are comparable in each project area. Each local educational agency shall report on or before July 1 of each year with respect to its compliance with this subsection.

(f) Any local educational agency shall be authorized to expend up to $2 in its State compensatory funds upon educationally deprived children, residing in ineligible school attendance areas or attending ineligible schools, for each dollar in State compensatory funds expended upon educationally deprived children residing in eligible school attendance areas or attending eligible schools: Provided, That the local educational agency meets each of the following conditions:

(1) that the local educational agency is in a State with a program meeting the requirements of section 21(b) with respect to incentive grants for compensatory education;

(2) that all State compensatory funds are expended within the local educational agency for supplemental services to educationally deprived children;

(3) that the combined State and Federal compensatory funds expended upon educationally deprived children residing in eligible school attendance areas or attending eligibile schools for the fiscal year is not less than 60 per centum of the funds such agency is eligible to receive for such fiscal year under section 11 (a)(2) (without regard to adjustments under section 143); and

(4) that the average expenditure per pupil from State compensatory funds for educationally deprived children residing in ineligible school attendance areas or attending ineligible schools does not exceed 24 per centum of the average per pupil expenditure in the State as defined in section 11(a)(2).

ACCOUNTABILITY

Sec. 37. (a) Recordkeeping.—Each local educational agency which receives funds under this title shall keep such records and afford such access thereto as the State educational agency shall prescribe, including records which fully disclose the amount and disposition of such funds, the total cost of programs and projects in connection with which such funds are used, the amount of the portion of the cost of the program or project supplied by other sources, and such other records as will facilitate an effective audit. Where a local educational agency carries on a single compensatory education program paid for out of funds under this title as well as State or local funds which meets all of the requirements of this title and where, under section 41(a), the local educational agency excludes expenditures from State and local sources in determining compliance with section 36 (b) and (e), the State educational agency need not require the Federal funds to be accounted for separately. In any proceeding, State or Federal, for the recoupment of any such funds which were misspent or misapplied, the percentage of the funds so misspent or misapplied which shall be deemed to be Federal funds shall be equal to the percentage of the funds used, or intended for use, for the program or project which were Federal funds.

(b) Reporting.—Each local educational agency which receives funds under this title shall make an annual report and such other reports to the State educational agency, in such form and containing such information (which in the case of reports relating to performance is in accordance with specific performance criteria related to program objectives), as may be reasonably necessary to enable the State educational agency to perform its duties under this title, including information relating to the educational achievement of students participating in programs and projects assisted under this title.

(c) Access to Information.—Each local educational agency which applies for or receives funds under this title shall make the application and all pertinent documents related thereto available to parents and other members of the general public and shall make all evaluations and reports required under subsection (a) public information.

COMPLAINT RESOLUTION

Sec. 38. Each local educational agency which receives funds under this title shall develop and implement written procedures for the resolution of complaints concerning violations of this title, or of applicable provisions of the General Education Provisions Act in connection with programs under this title which are made to that agency by parent advisory councils, parents, teachers, or other concerned organizations or individuals. Such procedures shall—

(1) include the dissemination to organizations and individuals interested in programs assisted under this title, of the name, title, address, and telephone number of any local official responsible for investigating and resolving complaints;

(2) provide specific time limits for investigation and resolution of complaints, which shall not exceed thirty days;

(3) provide an opportunity for the complainant or the complainant's representative, or both, to present evidence, including an opportunity to question parties involved;

(4) provide for keeping all correspondence or other written communications concerning the complaint in a central file, accessible to all parties;

(5) include a requirement that the complaint, the complaint's representative, the district parent advisory council and appropriate school parent advisory councils be notified in writing by the local educational agency, within ten days after the resolution of the complaint, of the nature of the resolution and the reasons for such resolution;

(6) provide the right to appeal the final resolution of the local educational agency to the State educational agency within thirty days after receipt of the written decision; and

(7) provide for the dissemination, free of charge, of information concerning these procedures to interested parties, including all district and school parent advisory councils.

INDIVIDUALIZED PLANS

SEC. 39. It is the intent of the Congress to encourage, where feasible, the development for each educationally deprived child participating in a program under this title of an individualized educational plan (maintained and periodically evaluated), agreed upon jointly by the local educational agency, a parent or guardian of the child, and, when appropriate, the child.

PARTICIPATION OF CHILDREN ENROLLED IN PRIVATE SCHOOLS

SEC. 40. (a) GENERAL REQUIREMENTS.—To the extent consistent with the number of educationally deprived children in the school district of the local educational agency who are enrolled in private elementary and secondary schools, such agency shall make provision for including special educational services and arrangements (such as dual enrollment, educational radio and television, and mobile educational services and equipment) in which such children can participate and meeting the requirements of sections 32 and 33, and subsections (a), (b), (d), and (l), of section 34, and subsections (b) and (c) of section 36. Expenditures for educational services and arrangements pursuant to this section for educationally deprived children in private schools shall be equal (taking into account the number of children to be served and the special educational needs of such children) to expenditures for children enrolled in the public schools of the local educational agency.

(b) CHILDREN TO BE SERVED.—The number of children receiving services under this title who attend private elementary and secondary schools shall be determined in each local educational agency receiving assistance under this title without regard to non-Federal compensatory education funds which serve children in public elementary and secondary schools who are also eligible for assistance under this title. Those children attending private elementary and secondary schools

who receive assistance under this title shall be identified in accordance with section 32 and without regard to skipping higher ranked school attendance areas or schools receiving services of the same nature and scope from non-Federal sources.

(c) BY-PASS PROVISIONS.—(1) If a local educational agency is prohibited by law from providing for the participation in special programs for educationally deprived children enrolled in private elementary and secondary schools as required by subsection (a), the Commissioner shall waive such requirement, and shall arrange for the provision of services to such children through arrangements which shall be subject to the requirements of subsection (a).

(2) If the Commissioner determines that a local educational agency has substantially failed to provide for the participation on an equitable basis of educationally deprived children enrolled in private elementary and secondary schools as required by subsection (a), he shall arrange for the provision of services to such children through arrangements which shall be subject to the requirements of subsection (a) upon which determination the provisions of subsection (a) shall be waived.

(3)(A) When the Commissioner arranges for services pursuant to this subsection, he shall, after consultation with the appropriate public and private school officials, pay to the provider the cost of such services, including the administrative cost of arranging for such services, from the appropriate allocation or allocations under this title.

(B) Pending final resolution of any investigation or complaint that could result in a determination under this subsection, the Commissioner may withhold from the allocation of the affected State or local educational agency the amount he estimates would be necessary to pay the cost of such services.

(C) Any determination by the Commissioner under this section shall continue in effect until the Commissioner determines that there will no longer be any failure or inability on the part of the local educational agency to meet the requirements of subsection (a).

(4)(A) The Commissioner shall not take any final action under this subsection until the State educational agency and local educational agency affected by such action have had an opportunity, for at least forty-five days after receiving written notice thereof, to submit written objections and to appear before the Commissioner or his designee to show cause why such action should not be taken.

(B) If a State or local educational agency is dissatisfied with the Commissioner's final action after a hearing under subparagraph (A) of this paragraph, it may within sixty days after notice of such action, file with the United States court of appeals for the circuit in which such State is located a petition for review of that action. A copy of the petition shall be forthwith transmitted by the clerk of the court to the Commissioner. The Commissioner thereupon shall file in the court the record of the proceedings on which he based his action, as provided in section 2112 of title 28, United States Code.

(C) The findings of fact by the Commissioner, if supported by substantial evidence, shall be conclusive; but the court, for good cause shown, may remand the case to the Commissioner to take further evidence, and the Commissioner may thereupon make new or modified findings of fact and may modify his previous action, and shall file in

the court the record of the further proceedings. Such new or modified findings of fact shall likewise be conclusive if supported by substantial evidence.

(D) Upon the filing of a petition under subparagraph (B), the court shall have jurisdiction to affirm the action of the Commissioner or to set it aside, in whole or in part. The judgment of the court shall be subject to review by the Supreme Court of the United States upon certiorari or certification as provided in section 1254 of title 28, United States Code.

Subpart 4—Exemptions from Certain Program Requirements

EXCLUSIONS FROM EXCESS COSTS AND COMPARABILITY PROVISIONS FOR CERTAIN SPECIAL STATE AND LOCAL PROGRAMS

SEC. 41. (a) IN GENERAL.—For the purpose of determining compliance with the requirement of section 36(b) (permitting funds to be used only for excess costs of programs and projects) and of section 36(e) (relating to comparability of services between each project area school and non-project area schools), a local educational agency may, at its option, exclude State and local funds expended for carrying out a special program or a State phase-in program. For purposes of this section—

(1) a special program is limited to—

(A) a State compensatory education program which the Commissioner has determined in advance under subsection (d) meets the requirements of subsection (b) and which the State educational agency determines is being implemented by the local educational agency in accordance with subsection (b);

(B) a State compensatory education program which the Commissioner has determined in advance under subsection (d) does not satisfy the requirements of subsection (b), but which he has determined permits the local educational agency, at its option, to use such special State funds in accordance with subsection (b), provided that the local educational agency designs a program which the State educational agency determines in advance under subsection (e) meets the requirements of subsection (b) and which the State educational agency determines will be implemented by the local educational agencies in accordance with subsection (b);

(C) a local compensatory education program which the State educational agency has determined in advance under subsection (c) meets the requirements of subsection (b) and which the State educational agency determines is being implemented in accordance with subsection (b); or

(D) a bilingual program for children with limited English language skills or special education program for handicapped children or children with specific learning disabilities; and

(2) a State phase-in program is a program which the Commissioner has determined in advance under subsection (d) meets the requirements of subsection (c) and which the State educational

agency determines will be implemented by local educational agencies in accordance with subsection (c).

(b) State and Local Compensatory Education Programs Similar to Title I Programs.—A State or local program meets the requirements of this subsection if it is similar to programs assisted under this part. The Commissioner shall consider a State or local program to be similar to programs assisted under this part if—

(1) all children participating in the program are educationally deprived;

(2) the program is based on performance objectives related to educational achievement and is evaluated in a manner consistent with those performance objectives;

(3) the program provides supplementary services designed to meet the special educational needs of the children who are participating;

(4) the local educational agency keeps such records and affords such access thereto as are necessary to assure the correctness and verification of the requirements of clauses (1), (2), and (3) of this subsection; and

(5) the State educational agency monitors performance under the program to assure that the requirements of clauses (1), (2), (3), and (4) of this subsection are met.

(c) Certain State Phase-In Programs.—A State education program which is being phased into full operation meets the requirements of this subsection if the Commissioner is satisfied that—

(1) the program is authorized and governed specifically by the provisions of State law;

(2) the purpose of the program is to provide for the comprehensive and systematic restructuring of the total educational environment at the level of the individual school;

(3) the program is based on objectives, including, but not limited to, performance objectives related to educational achievement and is evaluated in a manner consistent with those objectives;

(4) parents and school staff are involved in comprehensive planning, implementation, and evaluation of the program;

(5) the program will benefit all children in a particular school or grade-span within a school;

(6) schools participating in the program describe, in a school level plan, program strategies for meeting the special educational needs of educationally deprived children;

(7) the phase-in period of the program is not more than six school years, except that the phase-in period for a program commenced prior to the date of enactment of the Education Amendments of 1978 shall be deemed to begin on the date of enactment of such Amendments;

(8) at all times during such phase-in period at least 50 per centum of the schools participating in the program are the schools serving project areas which have the greatest numbers or concentrations of educationally deprived children or children from low-income families;

(9) State funds made available for the phase-in program will supplement, and not supplant, State and local funds which would,

in the absence of the phase-in program, have been provided for schools participating in such program;

(10) the local educational agency is separately accountable, for purposes of compliance with paragraphs (1) through (6), (8), and (9) of this subsection, to the State educational agency for any funds expended for such program; and

(11) the local educational agencies carrying out the program are complying with paragraphs (1) through (6), (8), and (9) and the State educational agency is complying with paragraph (10).

(d) Advance Determinations by the Commissioner.—The Commissioner shall make an advance determination of whether or not a State program described in subsection (a)(1)(A) or (B) or (a)(2) meets the requirements of subsection (b) or meets the requirements of subsection (c). The Commissioner shall require each State educational agency to submit to him the provisions of State law together with implementing rules, regulations, orders, guidelines, and interpretations which are necessary for him to make such an advance determination. The Commissioner's determination shall be in writing and shall include the reasons for his determination. Whenever there is any material change in pertinent State law affecting the program, the State educational agency shall submit such changes to the Commissioner.

(e) Advance Determination by the State Educational Agency.—The State educational agency shall make an advance determination of whether or not a program described in subsection (a)(1)(C) meets the requirements of subsection (b). The State educational agency shall require each local educational agency to submit the provisions of local law, together with implementing rules, regulations, guidelines and interpretations which are necessary to make such an advance determination. The State educational agency's determination shall be in writing and shall include the reasons for the determination. Whenever there is any material change in pertinent local law affecting the program, the local educational agency shall submit such changes to the State educational agency.

LIMITED EXEMPTIONS TO NON-SUPPLANTING REQUIREMENT

Sec. 42. (a) Waiver for Fully Funded Special Programs.—Where for a fiscal year—

(1) a local educational agency provides special State and local funds for programs for educationally deprived children which qualify under clause (A), (B), or (C) of section 41(a)(1) for an exclusion from the comparability and excess costs provisions under section 41, and

(2) the amount of such special State and local funds provided in eligible school attendance areas and for eligible schools when added to the Federal funds provided for programs under this part equals the funds such agency is eligible to receive for such fiscal year under section 11 (without regard to adjustments under section 143).

then the local educational agency may, without being considered in violation of section 36(d), utilize additional State and local funds for *special programs and projects which are solely for educationally deprived children residing in nonproject areas or attending nonproject schools, including areas and schools ineligible for assistance under this title. The exemption in the preceding sentence does not apply to the extent the level of such special State and local funds, per child participating in such programs residing in ineligible school attendance areas or attending ineligible schools, exceeds the amount of funds provided to the agency under this subpart per child participating in programs in project areas, plus the amount of such special State or local funds provided for use in such areas.*

SCHOOLWIDE PROJECTS

SEC. 43. (a) USE OF FUNDS FOR SCHOOLWIDE PROJECTS.—In the case of any school serving an attendance area that is eligible to receive services under this title and in which not less than 70 per centum of the children are from low-income families (in accordance with criteria established by the Commissioner), the local educational agency may carry out a project under this title to upgrade the entire educational program in that school if the requirements of subsection (b) are met.

(b) DESIGNATION OF SCHOOLS.—A school may be designated for a schoolwide project under subsection (a) if—

(1) a plan has been developed for that school by the local educational agency and has been approved by the State educational agency providing for—

(A) a comprehensive assessment of the educational needs of all students in the school, in particular the special needs of educationally deprived children, and

(B) an instructional program designed to meet the special needs of all students in the school;

(2) the plan has been developed with the involvement of those individuals who will be engaged in carrying out the plan, including parents, teachers, teacher aides, administrators, and secondary students if the plan relates to a secondary school;

(3) the plan provides for consultation among such individuals as to the educational progress of all students;

(4) the plan has been approved by the advisory council for such school established under section 35;

(5) appropriate training is provided to teachers and teacher aides to enable them effectively to carry out the plan;

(6) the plan includes procedures for evaluations involving the participation of the individuals listed in paragraph (2), and opportunities for periodic improvements in the plan based on the results of such evaluations; and

(7)(A) in the case of a school district in which there are one or more schools described in subsection (a) and there are also one or more other schools serving project areas, the local educational agency makes the Federal funds provided under this part available for children in such schools described in subsection (a) in amounts which, per educationally deprived child served, equal or exceed the amount of such funds made available per educationally deprived child served in such other schools; and

(B) the local educational agency makes special supplementary State and local funds available for the children in schools described in subsection (a) in amounts which, per child served who is not educationally deprived, equal or exceed the amount of Federal funds provided under this part which, per educationally deprived child served, are made available for children in such schools.

(c) Approval of School; Operation of Project.—The State educational agency shall approve the plan of any local educational agency for a schoolwide project if that plan meets the requirements of subsection (b). Any local educational agency which has such an approved plan for a project in a school—

(1) shall, in order to carry out the plan, be relieved, with respect to such school, of any requirements under this title with respect to commingling of funds provided under this title with funds available for regular programs,

(2) shall not, with respect to such school, be required to identify particular children as being eligible to participate in programs assisted under this title; and

(3) shall not, with respect to such school, be required to demonstrate that services provided with funds under this title are supplementary to the services regularly provided in the school.

NON-INSTRUCTIONAL DUTIES

Sec. 44. Notwithstanding any provision of subpart 3, personnel paid entirely by funds made available under this title may be assigned to certain limited, rotating, supervisory duties not related to classroom instruction, the benefits of which are not limited to participating children under this title. Such duties (1) may include only those to which similarly situated personnel not hired with funds made available under this title are assigned at the same school site, and for which such similarly situated personnel are paid, and (2) may not occupy a greater proportion of total time than is spent by similarly situated personnel at the same school site, or 10 per centum of total time, whichever is less.

Part B—Programs Operated by State Agencies

Subpart 1—Programs for Migratory Children

GRANTS—ENTITLEMENT AND AMOUNT

Sec. 51. (a) Entitlement.—A State educational agency or a combination of such agencies shall, upon application, be entitled to receive a grant for any fiscal year under this subpart to establish or improve, either directly or through local educational agencies, programs of education for migratory children of migratory agricultural workers or of migratory fishermen which meet the requirements of section 52.

(b) Amount of Grant.—(1) Except as provided in sections 81 and 82, the total grants which shall be made available for use in any State (other than Puerto Rico) for this subpart shall be an amount equal to 40 per centum of the average per pupil expenditure in the State (or (A) in the case where the average per pupil expenditure in the State is less than 80 per centum of the average per pupil expenditure in the

United States, of 80 per centum of the average per pupil expenditure in the United States, or (B) in the case where the average per pupil expenditure in the State is more than 120 per centum of the average per pupil expenditure in the United States, of 120 per centum of the average per pupil expenditure in the United States) multiplied by (i) the estimated number of such migratory children aged five to seventeen, inclusive, who reside in the State full time, and (ii) the full-time equivalent of the estimated number of such migratory children aged five to seventeen, inclusive, who reside in the State part time, as determined by the Commissioner in accordance with regulations, except that if, in the case of any State, such amount exceeds the amount required under section 52, the Commissioner shall allocate such excess, to the extent necessary, to other States whose total of grants under this sentence would otherwise be insufficient for all such children to be served in such other States. In determining the full-time equivalent number of migratory children who are in a State during the summer months, the Commissioner shall adjust the number so determined to take into account the special needs of those children for summer programs and the additional costs of operating such programs during the summer. In determining the number of migrant children for the purposes of this section the Commissioner shall use statistics made available by the migrant student record transfer system or such other system as he may determine most accurately and fully reflects the actual number of migrant students.

(2) For each fiscal year, the Commissioner shall determine the percentage which the average per pupil expenditure in Puerto Rico is of the lowest average per pupil expenditure of any of the fifty States. The grant which Puerto Rico shall be eligible to receive under this section for a fiscal year shall be the amount arrived at by multiplying the number of such migrant children in Puerto Rico by the product of—

(A) the percentage determined under the preceding sentence, and

(B) 32 per centum of the average per pupil expenditure in the United States.

PROGRAM REQUIREMENTS

SEC. 52. (a) REQUIREMENTS FOR APPROVAL OF APPLICATION.—The Commissioner may approve an application submitted under section 51(a) only upon his determination—

(1) that payments will be used for programs and projects (including the acquisition of equipment and where necessary the construction of school facilities) which are designed to meet the special educational needs of migratory children of migratory agricultural workers or of migratory fishermen, and to coordinate these programs and projects with similar programs and projects in other States, including the transmittal of pertinent information with respect to school records of such children;

(2) that in planning and carrying out programs and projects there has been and will be appropriate coordination with programs administered under section 303 of the Comprehensive Employment and Training Act of 1973;

(3) that such programs and projects will be administered and carried out in a manner consistent with the basic objectives of subpart 3 of part A, other than sections 32, 33, 36(d), and 40 thereof;

(4) that, in planning and carrying out programs and projects at both the State and local educational agency level, there has been and will be appropriate consultation with parent advisory councils established in accordance with regulations of the Commissioner (consistent with the requirements of section 35(a)); and

(5) that, in planning and carrying out programs and projects, there has been adequate assurance that provision will be made for the preschool education needs of migratory children of migratory agricultural workers or of migratory fishermen, whenever such agency determines that compliance with this clause will not detract from the operation of programs and projects described in paragraph (1) of this subsection after considering funds available for this purpose.

(b) Continuation of Migrant Status.—For purposes of this subpart, with the concurrence of his parents, a migratory child of a migratory agricultural worker or of a migratory fisherman shall be deemed to continue to be such a child for a period, not in excess of five years, during which he resides in the area served by the agency carrying on a program or project under this section. Such children who were migrant on the date of enactment of the Education Amendments of 1974 as determined pursuant to regulations of the Commissioner, shall be given priority in this consideration of programs and activities contained in applications submitted under this subsection.

(c) By-Pass Provision.—If the Commissioner determines that a State is unable or unwilling to conduct educational programs for migratory children of migratory agricultural workers or of migratory fishermen, or that it would result in more efficient and economic administration, or that it would add substantially to the welfare or educational attainment of such children, he may make special arrangements with other public or nonprofit private agencies to carry out the purposes of this section in one or more States, and for this purpose he may use all or part of the total of grants available for any such State under this section.

COORDINATION OF MIGRANT EDUCATION ACTIVITIES

Sec. 53. (a) Activities Authorized.—The Commissioner is authorized to make grants to, or enter into contracts with, State educational agencies to operate a system for the transfer among State and local educational agencies of migrant student records and to carry out other activities, in consultation with the States, to improve the interstate and intrastate coordination among State and local educational agencies of the educational programs available for migratory students.

(b) Authorization of Appropriations.—There are authorized to be appropriated for this section not more than 5 per centum of the total amount paid to State educational agencies under section 51.

Subpart 2—Programs for Handicapped Children

AMOUNT AND ELIGIBILITY

SEC. 61. (a) ELIGIBILITY FOR GRANT.—A State agency which is directly responsible for providing free public education for handicapped children (including mentally retarded, hard of hearing, deaf, speech impaired, visually handicapped, seriously emotionally disturbed, crippled, or other health impaired children who by reason thereof require special education), shall be eligible to receive a grant under this subpart for any fiscal year.

(b) AMOUNT OF GRANT.—(1) Except as provided in sections 81 and 82, the grant which a State agency referred to in subsection (a) (other than the agency for Puerto Rico) shall be eligible to receive under this section shall be an amount equal to 40 per centum of the average per pupil expenditure in the State (or (A) in the case where the average per pupil expenditure in the State is less than 80 per centum of the average per pupil expenditure in the United States, of 80 per centum of the average per pupil expenditure in the United States, or (B) in the case where the average per pupil expenditure in the State is more than 120 per centum of the average per pupil expenditure in the United States, of 120 per centum of the average per pupil expenditure in the United States), multiplied by the number of such children in average daily attendance, as determined by the Commissioner, at schools for handicapped children operated or supported by the State agency, including schools providing special education for handicapped children under contract or other arrangement with such State agency, in the most recent fiscal year for which satisfactory data are available.

(2) For each fiscal year, the Commissioner shall determine the percentage which the average per pupil expenditure in Puerto Rico is of the lowest average per pupil expenditure of any of the fifty States. The grant which Puerto Rico shall be eligible to receive under this subpart for a fiscal year shall be the amount arrived at by multiplying the number of such handicapped children in Puerto Rico by the product of—

(A) the percentage determined under the preceding sentence, and

(B) 32 per centum of the average per pupil expenditure in the United States.—

(c) COUNTING OF CHILDREN TRANSFERRING FROM STATE TO LOCAL PROGRAMS.—In the case where a child described in subsection (a) leaves an educational program for handicapped children operated or supported by the State agency in order to participate in such a program operated or supported by a local educational agency, such child shall be counted under subsection (b) if (1) he continues to receive an appropriately designed educational program and (2) the State agency transfers to the local educational agency in whose program such child participates an amount equal to the sums received by such State agency under this section which are attributable to such child, to be used for the purposes set forth in section 62.

PROGRAM REQUIREMENTS

Sec. 62. A State shall use the payments made under this subpart only for programs and projects (including the acquisition of equipment and, where necessary, the construction of school facilities) which are designed to meet the special educational needs of handicapped children. Such programs and projects shall be administered and carried out in a manner consistent with subpart 3 of Part A, other than sections 32, 33, 35, 36(d), 36(e) and 40 thereof. The State agency shall provide assurances to the Commissioner that each such child in average daily attendance counted under subsection (b) of section 61 will be provided with such a program, commensurate with his special needs, during any fiscal year for which such payments are made.

Subpart 3—Programs for Neglected and Delinquent Children

AMOUNT AND ENTITLEMENT

Sec. 71. (a) Entitlement to Grants.—A State agency which is directly responsible for providing free public education for children in institutions for neglected or delinquent children or in adult correctional institutions shall be entitled to receive a grant under this subpart for any fiscal year (but only if grants received under this subpart are used only for children in such institutions).

(b) Amount of Grant.—(1) Except as provided in sections 81 and 82, the grant which such an agency (other than the agency for Puerto Rico) shall be eligible to receive shall be an amount equal to 40 per centum of the average per pupil expenditure in the State (or (A) in the case where the average per pupil expenditure in the State is less than 80 per centum of the average per pupil expenditure in the United States, of 80 per centum of the average per pupil expenditure in the United States, or (B) in the case where the average per pupil expenditure in the State is more than 120 per centum of the average per pupil expenditure in the United States, of 120 per centum of the average per pupil expenditure in the United States) multiplied by the number of such neglected or delinquent children in average daily attendance, as determined by the Commissioner, at schools for such children operated or supported by that agency, including schools providing education for such children under contract or other arrangement with such agency, in the most recent fiscal year for which satisfactory data are available.

(2) For each fiscal year, the Commissioner shall determine the percentage which the average per pupil expenditure in Puerto Rico is of the lowest average per pupil expenditure of any of the fifty States. The grant which Puerto Rico shall be eligible to receive under this subpart for a fiscal year shall be the amount arrived at by multiplying the number of such neglected or delinquent children in Puerto Rico by the product of—

(A) the percentage determined under the preceding sentence, and

(B) 32 per centum of the average per pupil expenditure in the United States.

PROGRAM REQUIREMENT

SEC. 72. A State agency shall use payments under this subpart only for programs and projects (including the acquisition of equipment and where necessary the construction of school facilities) which are designed to meet the special educational needs of children in institutions for neglected or delinquent children or in adult correctional institutions. Such programs and projects shall be designated to support educational services supplemental to the basic education of such children which must be provided by the State, and such programs and projects shall be administered and carried out in a manner consistent with subpart 3 of part A, other than sections 32, 33, 35, 36(d), 36(e), and 40 thereof.

Subpart 4—General Provisions for State Operated Programs

RESERVATION OF FUNDS FOR TERRITORIES

SEC. 81. There is authorized to be appropriated for each fiscal year for purposes of each of subparts 1, 2, and 3 of this part, an amount equal to not more than 1 per centum of the amount appropriated for such year for such subparts, for payments to Guam, American Samoa, the Virgin Islands, the Northern Mariana Islands, and the Trust Territory of the Pacific Islands under each such subpart. The amounts appropriated for each such subpart shall be allotted among Guam, American Samoa, the Virgin Islands, the Northern Mariana Islands, and the Trust Territory of the Pacific Islands according to their respective need for such grants, based on such criteria as the Commissioner determines will best carry out the purposes of this title.

MINIMUM PAYMENTS FOR STATE OPERATED PROGRAMS

SEC. 82. No State shall receive in any fiscal year prior to October 1, 1983, pursuant to subpart 1, 2, or 3 of this part an amount which is less than 85 per centum of the amount which that State received in the prior fiscal year pursuant to the comparable sections of this title as in effect immediately preceding the enactment of the Education Amendments of 1978 or the comparable subpart of this part, whichever was in effect for such prior fiscal year, and, for any fiscal year ending prior to October 1, 1982, no State shall receive, pursuant to subpart 1 of this part, an amount which is less than 100 per centum of the amount that State received in the prior fiscal year pursuant to the comparable section of this title as in effect immediately prior to the enactment of the Education Amendments of 1978 or under subpart 1 of this part, whichever was in effect for such prior fiscal year.

PART C—STATE ADMINISTRATION OF PROGRAMS AND PROJECTS ASSISTED UNDER THIS TITLE

Subpart 1—State Applications

SUBMISSION OF STATE APPLICATION

SEC. 101. Any State desiring to participate under this title (except with respect to the program provided for in subpart 1 of part B relating to migratory children) shall have on file with the Commissioner an application submitted by its State educational agency.

CONTENTS OF STATE APPLICATIONS

SEC. 102. Each application required by section 101 shall contain (1) satisfactory assurances that the State educational agency will comply with the requirements of this part, and (2) such information as the Commissioner may consider necessary for him to make the findings required by section 132.

Subpart 2—Duties Imposed on State Educational Agencies

APPLICATION APPROVAL

SEC. 111. (a) REQUIREMENTS FOR APPROVAL.—(1) A State educational agency shall approve an application of a local educational agency or a State agency under this title if (A) such State educational agency is satisfied, after considering the factors specified in paragraph (2), that such applicant agency will use the funds received under the application in a manner which meets the requirements of this title, the General Education Provisions Act, and the rules, regulations, procedures, guidelines, criteria, or other requirements adopted by such agency which pertain to programs and projects assisted under this title, and (B) such applicant agency is not out of compliance with a determination of the State educational agency or the Commissioner that it repay funds paid it under this title which were misused, and is not out of compliance with a compliance agreement under section 116(c).

(2) A State educational agency may approve an application under paragraph (1), only after it has considered, where pertinent, (A) the results of Federal and State audits, (B) the results of Federal and State monitoring reports, (C) administrative complaints made by parents or other individuals concerning the applicant agency's compliance with this title, and (D) evaluations conducted under section 34(g).

(b) PAYMENTS.—Except as provided in section 144, a State educational agency may make payments from funds received under this title only for programs and projects which it has approved under subsection (a).

(c) OPPORTUNITY FOR HEARING.—A State educational agency shall not finally disapprove in whole or in part any application for funds under part A or under subpart 2 or subpart 3 of part B without first affording the local educational agency or other applicant submitting the application reasonable notice and opportunity for a hearing.

STATE RULEMAKING

SEC. 112. Nothing in this title shall be deemed to prohibit a State educational agency from adopting rules, regulations, procedures, guidelines, criteria, or other requirements applicable to programs and projects assisted under this title if they do not conflict with the provisions of this title, with regulations promulgated by the Commissioner implementing this title, or with other applicable Federal law. The Commissioner shall encourage State educational agencies, in adopting such rules, regulations, procedures, guidelines, criteria, or other requirements to recognize the special and unique needs and circumstances of the State and of each local educational agency in the State.

TECHNICAL ASSISTANCE AND DISSEMINATION OF INFORMATION

Sec. 113. Each State educational agency shall carry on a comprehensive program to provide technical assistance to local educational agencies and State agencies with respect to the use of funds received under this title. Such a program shall include technical assistance for management procedures, for planning, development, implementation, and evaluation of programs, and for preparation of applications, as well as other forms of technical assistance needed by local educational agencies and State agencies. Each State educational agency shall also adopt effective procedures for disseminating to local educational agencies and State agencies (1) significant and relevant information derived from educational research, (2) information about successful compensatory education projects, (3) information about other Federal and State funded programs which may provide needed health, social, and nutrition services to eligible participating children under this title, and (4) such other information as will assist local educational agencies and State agencies in planning, developing, implementing, and evaluating programs assisted under this title.

MONITORING

Sec. 114. Each State educational agency shall adopt standards, consistent with minimum standards established by the Commissioner, for monitoring the effectiveness of programs and projects assisted under this title. Such standards shall (1) describe the purpose and scope of monitoring; (2) specify the frequency of onsite visits; (3) describe the procedures for issuing and responding to monitoring reports, including but not limited to, the period of time in which the State educational agency must issue its report, the period of time in which the applicant agency must respond, and the appropriate followup by the State educational agency; (4) specify the methods for making monitoring reports available to parents, State and local auditors, and other persons, and (5) specify the methods for insuring that noncompliant practices are corrected.

COMPLAINT RESOLUTION

Sec. 115. Each State educational agency shall adopt written procedures for receiving complaints, or reviewing appeals from decisions of local educational agencies with respect to complaints, concerning violations of this title or applicable provisions of the General Education Provisions Act in connection with programs assisted under this title, and for conducting onsite investigations of such complaints which the State educational agency deems necessary. Such procedures shall include—

> *(1) the dissemination to organizations and individuals interested in programs assisted under this title of the name, title, address, and telephone number of any official of the State educational agency responsible for receiving complaints or for reviewing complaints and appeals from the final complaint resolution decision of a local educational agency and for conducting, if necessary, an independent investigation of the complaint;*

(2) specific time limits for resolving the complaint or completing the review and, if necessary, the independent onsite investigation, which shall not exceed sixty days unless exceptional circumstances exist;

(3) an opportunity for the complainant or the complainant's representative, or both, and the local educational agency involved to present evidence, including the opportunity to question parties to the dispute and any of their witnesses;

(4) a provision for keeping all correspondence or other written communications concerning the complaint in a central file, accessible to all parties;

(5) a requirement that the complainant, the complainant's representative, the local educational agency, the district advisory council, and appropriate school advisory councils be notified in writing, by the State educational agency within ten days after the resolution of the complaint or appeal, of the nature of the resolution, and the reasons for such resolutions;

(6) the right to appeal the final resolution of the State educational agency to the Commissioner within thirty days after receipt of the written decision; and

(7) dissemination, free of charge of information concerning these procedures to interested parties, including all district and school advisory councils.

WITHHOLDING OF PAYMENTS

Sec. 116. (a) Withholding.—Whenever a State educational agency, after reasonable notice and opportunity for a hearing (consistent with the requirements of section 434(b) of the General Education Provisions Act) to any local educational agency or State agency, before an impartial decisionmaker, finds that there has been a failure to comply substantially with any provision of subpart 3 of part A or subpart 2 or 3 of part B, the State educational agency shall notify such agency that further payments, in whole or in part, will not be made to it under this title until it is satisfied that there is no longer any such failure to comply. Until it is so satisfied, no further payments shall be made to such agency under this title, except as may be provided in a compliance agreement entered into under subsection (c). Pending the outcome of any proceeding under this subsection, the State educational agency may suspend payments to such agency, after such agency has been given reasonable notice and opportunity to show cause why such action should not be taken.

(b) Notice to Public of State Withholding.—Upon receipt by a local educational agency or a State agency of a notice that the State educational agency pursuant to subsection (a) is withholding payment the State educational agency shall inform the district advisory council and shall take such additional action as may be necessary to bring the State action to the attention of the public.

(c) Compliance Agreements.—A State educational agency may suspend the initiation or continuation of its withholding action under subsection (a) while there is in effect a complinace agreement with the local educational agency or State agency under this subsection.

Such an agreement shall be deemed to be in effect for the period specified therein, except that if the local educational agency or State agency fails to comply with the terms agreed to, such agreement shall no longer be in effect and subsection (a) shall be fully operative. In implementing such subsection, the State educational agency shall take into account any partial compliance by such agency under such agreement. For purposes of this subsection, the term "compliance agreement" means an agreement which—

(1) sets forth the terms and conditions to which the local educational agency or State agency has agreed in order to comply with the requirements of this title or the General Education Provisions Act and regulations promulgated thereunder, and with the applicable rules, regulations, procedures, guidelines, criteria or other requirements adopted by the State educational agency;

(2) addresses all the matters that formed the basis for the initiation of the withholding action by the State educational agency; and

(3) may consist of a series of agreements that in the aggregate dispose of all such matters.

Within fifteen days after the execution of any compliance agreement, the State educational agency shall send a copy thereof to the district advisory council affected, and to each organization or person who filed a complaint with respect to any failure to comply which is covered by that agreement.

(d) Review by the Commissioner.—A local educational agency or State agency may, in accordance with section 425(a) of the General Education Provisions Act, appeal a final determination of the State educational agency under subsection (a) to the Commissioner.

AUDITS AND AUDIT RESOLUTION

Sec. 117. (a) Auditing.—Each State shall make provision for audits of the expenditure of funds received under this title to determine, at a minimum, the fiscal integrity of grant or subgrant financial transactions and reports, and the compliance with applicable statutes, regulations, and terms and conditions of the grant or subgrant. Such audits shall be made with reasonable frequency, usually annually, but not less frequently than once every two years, considering the nature, size, and complexity of the activity.

(b) Audit Resolution.—Each State educational agency shall have in effect written procedures, meeting minimum standards established by the Commissioner, to assure timely and appropriate resolution of audit findings and recommendations arising out of audits provided for in subsection (a). Such procedures shall include a description of the audit resolution process, timetables for each step of the process, and an audit appeals process. Where under such procedures, the audit resolution process requires the repayment of Federal funds which were misspent or misapplied, such repayment may be made in either a single payment or in installments over a period not to exceed three years.

(c) Requirement for Repayment.—A local educational agency or State agency shall repay from non-Federal sources the amount of funds under this title which have been finally determined through the audit resolution process to have been misspent or misapplied.

(d) Review by the Commissioner.—A local educational agency or State agency may, in accordance with section 425(a) of the General Education Provisions Act, appeal a final determination of the State educational agency under subsection (b) to the Commissioner.

(e) Failure To Repay.—If, following an affirmation by the Commissioner of a final determination of a State educational agency under subsection (b) or failure by a local educational agency or State agency to seek timely review by the Commissioner, such local educational agency or State agency refuses to repay from non-Federal sources funds which have been misspent or misapplied under this title, the State educational agency shall promptly notify the Commissioner and the Commissioner shall promptly initiate collection action.

Subpart 3—Responsibilities of State Educational Agencies to Commissioner

STATE MONITORING AND ENFORCEMENT PLANS

Sec. 121. (a) State Plan.—Each State educational agency participating in programs under this title shall submit, at such times (at least once every three years) and in such detail as the Commissioner shall prescribe, a State monitoring and enforcement plan. Such plan shall set forth—

(1) a program of regular visits by State educational agency personnel to projects assisted under this title;

(2) the matters to be reviewed during such visits;

(3) procedures for verifying information provided by local educational agencies and State agencies, including the use of other information available to the State to cross-check that information;

(4) procedures for regular audits by the State of local educational agency and State agencies expenditures under this title, and procedures for the recovery of any expenditure determined not to be allowable under this title;

(5) procedures for resolving each complaint received by the State relating to programs assisted under this title, including complaints referred to the State by the Commissioner and complaints by representatives of children enrolled in private schools that those children are not receiving the services to which they are entitled under this title; and

(6) a description of the means by which the State educational agency has determined, and will continue to determine, the compliance by local educational agencies with the requirements of section 40 relating to the equitable provision of services to children enrolled in private schools.

(b) Report.—Each plan submitted by a State educational agency under this section shall include a report, in such form as the Commissioner shall prescribe, of the activities undertaken by the State in the years since the previous plan was filed to carry out its monitoring and enforcement efforts under this title.

REPORTING

Sec. 122. Each State educational agency shall make to the Commissioner (1) periodic reports (including the results of objective measurements required by section 34(g) and of research and replication studies) evaluating the effectiveness of payments under this title and of particular programs assisted under it in improving the educational attainment of educationally deprived children, and (2) such other reports as may be reasonably necessary to enable the Commissioner to perform his duties under this title, including such reports as he may require to determine the amounts which the local educational agencies of that State are eligible to receive for any fiscal year.

RECORDKEEPING, FISCAL CONTROL, AND FUND ACCOUNTING

SEC. 123. Each State educational agency which receives funds under this title shall use fiscal control and fund accounting procedures that will ensure proper disbursement of, and accounting for, funds made available under this title, and keep such records, and afford access thereto, as the Commissioner shall prescribe, including records which fully disclose the amount and disposition by such agency of such funds, the total cost of programs and projects in connection with which such funds are used, the amount of that portion of the cost of the program and project supplied by other sources, and such other records as will facilitate an effective audit.

PROHIBITION ON CONSIDERATION OF FEDERAL AID IN DETERMINING STATE AID

SEC. 124. No State shall take into consideration payments under this title in determining the eligibility of any local educational agency in that State for State aid, or the amount of State aid, with respect to free public education of children.

PART D—FEDERAL ADMINISTRATION OF PROGRAMS AND PROJECTS ASSISTED UNDER TITLE I

APPLICABILITY

SEC. 131. In addition to other requirements contained in this part, the requirements of the General Education Provisions Act which relate to Federal administration of elementary and secondary education programs shall apply to programs carried out under this title.

APPROVAL OF APPLICATIONS

SEC. 132. (a) REQUIREMENT FOR APPROVAL.—The Commissioner shall not approve an application under section 101 until he has made specific findings, in writing, that (1) the application and the State monitoring and enforcement plan required under section 121 comply with this title, and (2) that he is satisfied that the assurances in such application and the assurances contained in its general application under section 435 of the General Education Provisions Act will be carried out.

(b) HEARINGS.—The Commissioner shall in accordance with the procedures set forth in section 453 of the General Education Provisions Act, not finally disapprove an application under section 52 or section 101 except after notice and opportunity for a hearing to the State educational agency.

PROGRAM EVALUATION

Sec. 133. (a) Independent Evaluations.—The Commissioner shall provide for independent evaluations which describe and measure the impact of programs and projects assisted under this title. Such evaluations may be provided by contract or other arrangements, and all such evaluations shall be made by competent and independent persons, and shall include, whenever possible, opinions obtained from program or project participants about the strengths and weaknesses of such programs and projects. In all such evaluations the Commissioner shall appoint an advisory committee comprised of no less than seven members to review and make recommendations regarding the adequacy of the evaluation design. At least 50 per centum of such advisory committee members shall be local school district evaluators experienced in evaluations under this title.

(b) Development and Publication of Standards.—The Commissioner shall develop and publish standards for evaluation of program or project effectiveness in achieving the objectives of this title.

(c) Jointly Sponsored Studies.—The Commissioner shall, where appropriate, consult with State agencies in order to provide for jointly sponsored objective evaluation studies of programs and projects assisted under this title within a State.

(c) Evaluation Models.—The Commissioner shall provide to State educational agencies, models for evaluations of all programs conducted under this title, for their use in carrying out their functions under section 102, which shall include uniform procedures and criteria to be utilized by local educational agencies and State agencies, as well as by the State educational agency in the evaluation of such programs.

(e) Technical Assistance.—The Commissioner shall provide such technical and other assistance as may be necessary to State educational agencies to enable them to assist local educational agencies and State agencies in the development and application of a systematic evaluation of programs in accordance with the models developed by the Commissioner.

(f) Specification of Objective Criteria.—The models developed by the Commissioner shall specify objective criteria which shall be utilized in the evaluation of all programs and shall outline techniques (such as longitudinal studies of children involved in such programs) and methodology (such as the use of tests which yield comparable results) for producing data which are comparable on a statewide and nationwide basis.

(g) Report to Congress.—The Commissioner shall make a report to the respective committees of the Congress having legislative jurisdiction over programs authorized by this title and the respective Committees on Appropriations no later than February 1 of each calendar year concerning the results of evaluations of programs and projects required under this section, which shall be comprehensive and detailed, as up-to-date as possible, and based to the maximum extent possible on objective measurements, together with other related findings and evaluations and his recommendations with respect to legislation.

(h) Information Dissemination.—The Commissioner shall also develop a system for the gathering and dissemination of results of

evaluations and for the identification of exemplary programs and projects, or of particularly effective elements of programs and projects, and for the dissemination of information concerning such programs and projects or such elements thereof to State agencies and local educational agencies responsible for the design and conduct of programs and projects under this title, and to the education profession and the general public.

(i) MAXIMUM EXPENDITURES.—The Commissioner is authorized, out of funds appropriated to carry out this title in any fiscal year, to expend such sums as may be necessary to carry out the provisions of this section, but not to exceed one-half of 1 per centum of the amount appropriated to carry out this title. In carrying out the provisions of this section, the Commissioner shall place priority on assisting States, local educational agencies, and State agencies to conduct evaluations and shall, only as funds are available after fulfilling that purpose, seek to conduct any national evaluations of the program.

COMPLAINT RESOLUTION

SEC. 134. The Commissioner shall develop and implement written procedures for receiving appeals from final resolutions of State educational agencies with respect to complaints concerning violations of this title or of applicable provisions of the General Education Provisions Act in connection with programs under this title, for receiving such complaints directly from parent advisory councils, parents, teachers, or other concerned organizations or individuals, and for conducting independent onsite investigations of such complaints if the Commissioner deems necessary. Such procedures shall include—

(1) identification by name, title, address, and telephone number of any officials of the Office of Education responsible for receiving complaints, for reviewing appeals from the final complaint resolution decision of a State educational agency and for conducting necessary independent investigations of complaints;

(2) specific time limits for resolving the complaint or for completing the review and any necessary independent investigation, which shall not exceed sixty days unless exceptional circumstances exist;

(3) an opportunity for the complainant, the complainant's representative, the local educational agency, and the State educational agency to present evidence;

(4) a provision for keeping all correspondence or other written communications concerning the complaint in a central file, accessible to all parties;

(5) a requirement that the complainant, the complainant's representative, the local educational agency, the State educational agency, State agency, the district parent advisory council, and appropriate school parent advisory councils shall be notified, in writing, within ten days after the resolution of the appeal of the nature of the resolution, the reasons therefor, and the right to an administrative appeal; and

(6) dissemination of information concerning these procedures.

AUDITS AND AUDIT RESOLUTION

SEC. 135. (a) AUDITING.—The Inspector General of the Department of Health, Education, and Welfare shall make provision for audits of grants made under this title to determine, at a minimum, the fiscal integrity of grant or subgrant financial transactions and reports, and the compliance with applicable statutes, regulations, and terms and conditions of the grant or subgrant.

(b) AUDIT RESOLUTION AND REPAYMENT.—The Commissioner shall adopt procedures to assure timely and appropriate resolution of audit findings and recommendations arising out of audits provided for in subsection (a). Such procedures shall include timetables for each step of the audit resolution process and an audit appeals process. Where, under such procedures, the audit resolution process requires the repayment of Federal funds which were misspent or misapplied, the Commissioner shall require the repayment of the amount of funds under this title which have been finally determined through the audit resolution process to have been misspent or misapplied. Such repayment may be made from funds derived from non-Federal sources or from Federal funds other than funds appropriated to carry out the purposes of this title. Such repayments may be made in either a single payment or in installment payments over a period not to exceed three years.

(c) AUDIT REPORTING.—The Commissioner shall, in conjunction with the reporting duties specified in section 133(g) of this Act and section 417 of the General Education Provisions Act, submit annually to the Congress a report containing information regarding every Federal audit of any portion of a program under this title in a State or local educational agency which was initiated, completed, or outstanding during the year preceding the date of submission of the report. The report shall include for each such audit—

(1) the identity of each such agency;

(2) the number and type of audit exceptions reported for each such agency;

(3) the dollar amount of any financial exceptions noted in final audit reports and in letters of final determination and in any subsequent appeals procedures for each such agency;

(4) the status of recoupment activities, where applicable, including the dollar amounts received or owing; and

(5) a description of audit followup actions conducted during that year for the purpose of determining that deficiencies which led to financial audit exceptions or audit findings of procedural non-compliance have been corrected.

WITHHOLDING OF PAYMENTS

SEC. 136. (a) WITHHOLDING.—Whenever the Commissioner, after reasonable notice and opportunity for a hearing to any State educational agency, finds that there has been a failure to comply substantially with any assurance set forth in the application of that State approved under section 52 or 101 the Commissioner shall notify the agency that further payments will not be made to the State under this title (or, his discretion, that the State educational agency shall not *make further payments under this title to specified local educational agencies or State agencies affected by the failure) until he is satisfied that there is no longer any such failure to comply. Until he is so satisfied, no further payments shall be made to the State under this title, or payments by the State educational agency under this title shall be limited to local educational agencies and State agencies not affected by the failure, as the case may be. Pending the outcome of any proceedings under this subsection, the Commissioner may suspend payments to such agency, after such agency has been given reasonable notice and opportunity to show cause why such action should not be taken.*

(b) Notice to Public of Commissioner Withholding.—Upon receipt by State of a notice under subsection (a) that the Commissioner is withholding payments, the Commissioner shall take such action as may be necessary to bring his action to the attention of the public within the State.

(c) Compliance Agreement.—The Commissioner may suspend the initiation or continuation of his withholding action under subsection (a) during any period there is in effect a compliance agreement with the State educational agency under this subsection. Such an agreement shall be deemed to be in effect for the period specified therein, except that if the State educational agency fails to comply with the terms agreed to, such an agreement shall no longer be in effect and subsection (a) shall be fully operative. In implementing such subsection, the Commissioner shall take into account any partial compliance by such agency under such agreement. For purposes of this subsection, the term "compliance agreement" means agreement which—

(1) sets forth the terms and conditions to which the State or local educational agency or State agency has agreed in order to comply with the requirements of this title or the General Education Provisions Act and regulations promulgated thereunder;

(2) which addresses all the matters that formed the basis for the initiation of the withholding action by the Commissioner; and

(3) which may consist of a series of agreements that in the aggregate dispose of all such matters.

A compliance agreement under this subsection shall not be exempt from disclosure under any provision of section 552, of title 5, United States Code. Within fifteen days after the execution of any compliance agreement under this subsection, the Commissioner shall send a copy thereof to each organization or person who filed a complaint with respect to any failure to comply which is covered by that agreement.

POLICY MANUAL

Sec. 137. (a) Scope and Purpose.—The Commissioner shall, not later than six months after the publication of final regulations with respect to the amendments to this title made by the Education Amendments of 1978, prepare and distribute to State educational agencies, State agencies operating programs for neglected and delinquent and handicapped children, local educational agencies, and districtwide parent advisory councils established under section 35(a), and shall make available to other interested individuals, organizations, and agencies a policy manual for this title to—

(1) assist local educational agencies, State educational agencies operating programs for migrant children, and State agencies operating programs for neglected and delinquent and handicapped children in (A) preparing applications for program funds under this title, (B) meeting the applicable program requirements under this title, and (C) enhancing the quality, increasing the depth, or broadening the scope of activities for programs under this title;

(2) assist State educational agencies in achieving proper and efficient administration of programs funded under this title;

(3) assist advisory councils established under section 35(a) in advising the local educational agencies in the planning, implementation, and evaluation of programs and projects under this title; and

(4) ensure that offices and employees of the Department of Health, Education, and Welfare, including, but not limited to, officers and employees of the Commissioner and officers and employees of such Department charged with auditing programs carried on under this title, uniformly interpret, apply, and enforce requirements under this title throughout the United States.

(b) CONTENTS OF POLICY MANUAL.—The policy manual shall, with respect to programs carried on under this title, contain descriptions, statements, procedural and substantive rules, opinions, policy statements and interpretations, and indices to and amendments of the foregoing, and in particular, whether or not such items are required under section 552 of title 5, United States Code to be published or made available, the manual shall include (but not be limited to)—

(1) a statement of the requirements applicable to the programs carried on under this title including such requirements contained in this title, the General Education Provisions Act, other applicable statutes, and regulations issued under the authority of such statutes;

(2) an explanation of the purpose of each requirement, including appropriate references to legislative history;

(3) an explanation of the interrelationships between the applicable requirements;

(4) a statement of the procedures to be followed by the Commissioner and the Secretary with respect to proper and efficient performance of their administrative responsibilities, including but not limited to (A) approving State applications or State plans, (B) distributing grants to appropriate agencies, (C) resolving problems discovered during monitoring visits, (D) resolving financial exceptions disclosed during audits, (E) collecting outstanding claims arising out of activities under this title, (F) resolving complaints, (G) responding to requests for advisory opinions interpreting and applying standards contained in applicable statutes and regulations to the public, (H) identifying and publicizing exemplary programs, and (I) making public final audit determinations of the Commissioner.

(5)summaries of (A) advisory opinions referred to in paragraph (4)(G) of this section and (B) final audit determinations referred to in pargaraph (4)(I), including examples of actual

applications of the legal requirements of applicable statutes and regulations;

(6) model forms and instructions developed by the Commissioner for use by State and local educational agencies, at their discretion, including, but not limited to, application forms, application review checklists, and instruments for monitoring programs operated by applicant agencies;

(7) summaries of appropriate court decisions concerning programs under this title;

(8) examples of methods of distributing State and local funds which do and do not satisfy the applicable requirements under this title; and

(9) model forms, policies, and procedures developed by State educational agencies.

PART E—PAYMENTS

PAYMENTS

SEC. 141. The Commissioner shall, subject to the provisions of section 143, from time to time pay to each State, in advance or otherwise, the amount which it and the local educational agencies of that State are eligible to receive under this title. Such payments shall take into account the extent (if any) to which any previous payment to such State educational agency under this title (whether or not in the same fiscal year) was greater or less than the amount which should have been paid to it.

AMOUNT OF PAYMENTS TO LOCAL EDUCATIONAL AGENCIES

SEC. 142. From the funds paid to it pursuant to section 141 each State educational agency shall distribute to each local educational agency of the State which is not ineligible by reason of section 11(b) and which has submitted an application approved pursuant to section 111(a) the amount for which such application has been approved, except that this amount shall not exceed the amount determined for that agency pursuant to section 11.

ADJUSTMENTS WHERE NECESSITATED BY APPROPRIATIONS

SEC. 143. (a) ADJUSTMENTS.—If the sums appropriated for any fiscal year for making the payments provided in this title are not sufficient to pay in full the total amounts which all local educational agencies, State educational agencies, and other State agencies are entitled to receive under this title for such year, the amount available for each grant to a State agency eligible for a grant under subpart 1, 2, or 3 of part B shall be equal to the total amount of the grant as computed under each such subpart. If the remainder of such sums available after the application of the preceding sentence is not sufficient to pay in full the total amounts which all local educational agencies are entitled to receive under subpart 1 of part A of this title for such year, the allocations to such agencies shall, subject to adjustments under the *next sentence, be ratably reduced to the extent necessary to bring the aggregate of such allocations within the limits of the amount so appropriated. The allocation of a local educational agency which would be reduced under the preceding sentence to less than 85 per centum of its allocation under subpart 1 of part A for the preceding fiscal year, shall be increased to such amount, the total of the increases thereby required being derived by proportionately reducing the allocations of the remaining local educational agencies, under the preceding sentence, but with such adjustments as may be necessary to prevent the allocation to any remaining local educational agency from being thereby reduced to less than 85 per centum of its allocation for such year. In case additional funds become available for making payments under this title for that year, such reduced amounts shall be increased on the same basis that they were reduced.*

(b) REDISTRIBUTION.—If the amount that would be received in any fiscal year by a local educational agency in any State under subpart 1 and section 21 of Part A of this title exceeds 100 per centum of the maximum amount for which such agency is eligible under section 11 for such fiscal year, such excess shall be used to increase ratably the allocations of all other local educational agencies in such State under subpart 1 of part A, with such adjustments as may be necessary to ensure that the amounts received by such agencies under subpart 1 and section 21 of part A, do not exceed the maximum amount for which such agencies are eligible under section 11 for such fiscal year.

(c) DISTRIBUTION OF EXCESS.—In order to permit the most effective use of all appropriations made to carry out this title, the Commissioner may set dates by which (1) State educational agencies must certify to him the amounts for which the applications of educational agencies have been or will be approved by the State, and (2) State educational agencies referred to in subpart 1 of part B must file applications. If the maximum grant a local educational agency or an agency referred to in subpart 1 of part B would receive (after any ratable reduction which may have been required under the first sentence of subsection (a) is more than an amount which the State educational agency determines, in accordance with regulations prescribed by the Commissioner, such agency will use, the excess amount shall be made available first to educational agencies in that State. Determinations of the educational agencies to which such excess amounts shall be made available shall be made by the State educational agency in furtherance of the purposes of this title in accordance with criteria prescribed by the Commissioner which are designed to assure that such excess amounts will be made available to other eligible educational agencies with the greatest need, for the purpose of, where appropriate, redressing inequities inherent in, or mitigating hardships caused by, the application of the provisions of section 11(a) as a result of such factors as population shifts and changing economic circumstances. In the event excess amounts remain after carrying out the preceding two sentences of this section, such excess amounts shall be distributed among the other States, as the Commissioner shall prescribe for use by local educational agencies in such States for the purposes of this title in such manner as the respective State educational agencies shall prescribe.

PAYMENTS FOR STATE ADMINISTRATION

Sec. 144. The Commissioner is authorized to pay to each State amounts equal to the amounts expended by it for the proper and efficient performance of its duties under this title, except that the total of such payments in any fiscal year shall not exceed—

(1) 1.5 per centum of the amount allocated to the State and its local educational agencies and to other State agencies as determined for that year under this title; or

(2) $225,000, or $50,000 in the case of Guam, American Samoa, the Virgin Islands, the Northern Mariana Islands, or the Trust Territory of the Pacific Islands,

whichever is the greater, except that any amount paid by reason of clause (1) or (2) in excess of the limitations on such payments in effect prior to the effective date of the Education Amendments of 1978 shall be used exclusively for monitoring, audit resolution, enforcement, or similar compliance activities and shall supplement and not supplant funds otherwise available from non-Federal sources for such purposes.

PART F—GENERAL PROVISIONS

JUDICIAL REVIEW

Sec. 151. (a) Appeals.—If any State is dissatisfied with the Commissioner's final action with respect to the approval of its application submitted under subpart 1 of part B or section 101 or with his final action under section 136, such State may, within sixty days after notice of such action, file with the United States court of appeals for the circuit in which such State is located a petition for review of that action. A copy of the petition shall be forthwith transmitted by the clerk of the court to the Commissioner. The Commissioner thereupon shall file in the court the record of the proceedings on which he based his action, as provided in section 2112 of title 28, United States Code.

(b) Basis of Review.—The findings of fact by the Commissioner, if supported by substantial evidence, shall be conclusive; but the court, for good cause shown, may remand the case to the Commissioner to take further evidence, and the Commissioner may thereupon make new or modified findings of fact and may modify his previous action, and shall file in the court the record of the further proceedings. Such new or modified findings of fact shall likewise be conclusive if supported by substantial evidence.

(c) Judicial Appeals.—Upon the filing of such petition, the court shall have jurisdiction to affirm the action of the Commissioner or to set it aside, in whole or in part. The judgment of the court shall be subject to review by the Supreme Court of the United States upon certiorari or certification as provided in section 1254 of title 28, United States Code.

NATIONAL ADVISORY COUNCIL

Sec. 152. (a) Establishment.—There shall be a National Advisory Council on the Education of Disadvantaged Children (hereafter in this section referred to as the "National Council") consisting of fifteen *members appointed by the President, without regard to the provisions of title 5, United States Code, governing appointment in the competitive service, for terms of three years, except that (1) in the case of initial members, five shall be appointed for terms of one year each and five shall be appointed for terms of two years each, and (2) appointments to fill vacancies shall be only for such terms as remain unexpired. The National Council shall meet at the call of the Chairman.*

(b) DUTIES.—The National Council shall review and evaluate the administration and operation of this title, including its effectiveness in improving the educational attainment of educationally deprived children and meeting their occupational and career needs, and make recommendations for the improvement of this title and its administration and operation. These recommendations shall take into consideration experience gained under this and other Federal education programs for disadvantaged children and, to the extent appropriate, experience gained under other public and private educational programs for disadvantaged children.

(c) REPORTS.—The National Council shall make such reports of its activities, findings, and recommendations (including recommendations for changes in the provisions of this title) as it may deem appropriate and shall make an annual report to the President and the Congress not later than March 31 of each calendar year. Such annual report shall include a report specifically on which of the various compensatory education programs funded in whole or in part under the provisions of this title, and of other public and private educational programs for educationally deprived children, hold the highest promise for raising the educational attainment of these educationally deprived children. The President is requested to transmit to the Congress such comments and recommendations as he may have with respect to such report. Subject to section 448(b) of the General Education Provisions Act, the National Council shall continue to exist until October 1, 1984.

LIMITATION ON GRANT TO PUERTO RICO

SEC. 153. Notwithstanding the provisions of part A or of subpart 1, 2, or 3 of part B of this title, the amount paid to the Commonwealth of Puerto Rico under this title for any fiscal year shall not exceed 150 per centum of the amount received by Puerto Rico in the preceding fiscal year; and any excess over such amount shall be used to ratably increase the allocations under subpart 1 of part A of the other local educational agencies in the country whose allocations do not exceed the maximum amount for which they are eligible under section 11.

DEFINITIONS

SEC. 154. Except as otherwise provided, for purposes of this title:

(1) The term "local educational agency" means a public board of education or other public authority legally constituted within a State for either administrative control or direction of, or to perform a service function for, public elementary or secondary schools in a city, county, township, school district, or other political subdivision of a State, or such combination of school districts or counties as are recognized in

a State as an administrative agency for its public elementary or secondary schools. Such term includes any other public institution or agency having administrative control and direction of a public elementary or secondary school.

(2) The term "school attendance area" means in relation to a particular school, the geographical area in which the children who are normally served by that school reside.

(3) The term "project area" means a school attendance area having a high concentration of children from low-income families which, without regard to the locality of the project itself, is designated as an area from which children are to be selected to participate in a program or project assisted under this title.

(4) The term "State educational agency" means the officer or agency primarily responsible for the State supervision of public elementary and secondary schools.

(5) The term "State" means a State, Puerto Rico, Guam, the District of Columbia, American Samoa, the Virgin Islands, the Northern Mariana Islands, or the Trust Territory of the Pacific Islands.

(6) The terms "Commissioner of Education" and "Commissioner" means the United States Commissioner of Education.

(7) The term "Secretary" means the Secretary of Health, Education, and Welfare.

(8) The term "parent" includes a legal guardian or other person standing in loco parentis.

(9) The term "free public education" means education which is provided at public expense, under public supervision and direction, and without tuition charge, and which is provided as elementary or secondary school education in the applicable State, except that such term does not include any education provided beyond grade 12.

(10) The term "current expenditures" means expenditures for free public education, including expenditures for administration, instruction, attendance and health services, pupil transportation services, operation and maintenance of plant, fixed charges, and net expenditures to cover deficits for food services and student body activities, but not including expenditures for community services, capital outlay, and debt service, or any expenditures made from funds granted under title I, II, III, IV, VI, or VII of this Act.

(11) The term "average daily attendance" shall be determined in accordance with State law, except that notwithstanding any other provision of this title, where the local educational agency of the school district in which any child resides makes or contracts to make a tuition payment for the free public education of such child in a school situated in another school district, for purposes of this title the attendance of such child at such school shall be held and considered (A) to be in attendance at a school of the local educational agency so making or contracting to make such tuition payment, and (B) not to be in attendance at a school of the local educational agency receiving such tuition payment or entitled to receive such payment under the contract.

(12) The term "county" means those divisions of a State utilized by the Secretary of Commerce in compiling and reporting data regarding counties.

(13) The term "construction" includes the preparation of drawings and specifications for school facilities; erecting, building, acquiring, altering, remodeling, improving, or extending school facilities; and the inspection and supervision of the construction of school facilities.

(14) The term "school facilities" means classrooms and related facilities (including initial equipment) for free public education and interests in land (including site, grading, and improvements) on which such facilities are constructed, except that such term does not include those gymnasiums and similar facilities intended primarily for exhibitions for which admission is to be charged to the general public.

(15) The term "equipment" includes machinery, utilities, and building equipment and any necessary enclosures or structures to house them, and includes all other items necessary for the functioning of a particular facility as a facility for the provision of educational services, including items such as instructional equipment and necessary furniture, printed, published, and audio-visual instructional materials, and books, periodicals, documents, and other related materials.

(16) The term "elementary school" means a day or residential school which provides elementary education, as determined under State law, and the term "secondary school" means a day or residential school which provides secondary education, as determined under State law, except that it does not include any education provided beyond grade 12.

(17) The term "average per pupil expenditure" means in the case of a State or the United States, the aggregate current expenditures, during the second fiscal year preceding the fiscal year for which the computation is made (or if satisfactory data for that year are not available at the time of computation, then during the most recent preceding fiscal year for which satisfactory data are available), of all local educational agencies in the State, or in the United States (which for the purposes of this subsection means the fifty States, and the District of Columbia), as the case may be, plus any direct current expenditures by the State for operation of such agencies (without regard to the source of funds from which either of such expenditures is made), divided by the aggregate number of children in average daily attendance to whom such agencies provided free public education during such preceding year.

TITLE II—SCHOOL LIBRARY RESOURCES, TEXTBOOKS AND OTHER INSTRUCTIONAL MATERIALS

APPROPRIATIONS AUTHORIZED

SEC. 201. (a) The Commissioner shall carry out a program for making grants for the acquisition of school library resources, textbooks, and other printed and published instructional materials for the use of children and teachers in public and private elementary and secondary schools.

(b) For the purpose of making grants under this title, there are hereby authorized to be appropriated the sum of $100,000,000 for the fiscal year ending June 30, 1966, $125,000,000 for the fiscal year ending June 30, 1967, $150,000,000 for the fiscal year ending June 30, 1968, $162,500,000 for the fiscal year ending June 30, 1969, $200,000,000 for each of the fiscal years ending June 30, 1970, and June 30, 1971, $210,000,000 for the fiscal year ending June 30, 1972, and $220,000,000 for the fiscal year ending June 30, 1973, and for each succeeding fiscal year ending prior to October 1, [1979] *1983*, except that no funds are authorized to be appropriated for obligation by the Commissioner during any year for which funds are available for obligation by the Commissioner for carrying out part B of title IV.

ALLOTMENT TO STATES

SEC. 202. (a)(1) There is hereby authorized to be appropriated for each fiscal year for the purposes of this paragraph an amount equal to not more than 1 per centum of the amount appropriated for such year for payments to States under section 201(b). The Commissioner shall allot the amount appropriated pursuant to this paragraph among Guam, American Samoa, the Virgin Islands, *the Northern Mariana Islands*, and the Trust Territory of the Pacific Islands according to their respective needs for assistance under this title. In addition, he shall allot from such amounts to (A) the Secretary of the Interior the amount necessary for such assistance for children and teachers in elementary and secondary schools operated for Indian children by the Department of the Interior, and (B) the Secretary of Defense the amount necessary for such assistance for children and teachers in the overseas dependents schools of the Department of Defense. The terms upon which payments for such purpose shall be made to the Secretary of Interior and the Secretary of Defense shall be determined pursuant to such criteria as the Commissioner determines will best carry out the purpose of this title.

(2) From the sums appropriated for carrying out this title for any fiscal year pursuant to section 201(b), the Commissioner shall allot to each State an amount which bears the same ratio to the total of such sums as the number of children enrolled in the public and private elementary and secondary schools of that State bears to the total number of children so enrolled in such schools in all of the States. The number of children so enrolled shall be determined by the Commissioner on the basis of the most recent satisfactory data available to him. For purposes of this subsection, the term "State" shall not include Guam, American Samoa, the Virgin Islands, *the Northern Mariana Islands*, and the Trust Territory of the Pacific Islands.

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PAYMENTS TO STATES

SEC. 204. (a) From the amounts allotted to each State under section 202 the Commissioner shall pay to that State an amount equal to the amount expended by the State in carrying out its State plan. Such payments may be made in installments, and in advance or by way of reimbursement, with necessary adjustments on account of overpayments or underpayments.

(b) In any State which has a State plan approved under section 203(b) and in which no State agency is authorized by law to provide library resources, textbooks, or other printed and published instructional materials for the use of children and teachers in any one or more elementary or secondary school in such State, the Commissioner shall arrange for the provision on an equitable basis of such library resources, textbooks, or other instructional materials for such use and shall pay the cost thereof for any fiscal year ending prior to October 1, [1979], *1983*, out of that State's allotment.

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TITLE III—SUPPLEMENTARY EDUCATIONAL CENTERS AND SERVICES; GUIDANCE, COUNSELING, AND TESTING

APPROPRIATIONS AUTHORIZED

SEC. 301. (a) The Commissioner shall carry out a program for making grants for supplementary educational centers and services, to stimulate and assist in the provision of vitally needed educational services not available in sufficient quantity or quality, and to stimulate and assist in the development and establishment of exemplary elementary and secondary school educational programs to serve as models for regular school programs, and to assist the States in establishing and maintaining programs of testing and guidance and counseling.

(b) For the purpose of making grants under this title, there is hereby authorized to be appropriated the sum of $550,000,000 for the fiscal year ending June 30, 1971, $575,000,000 for the fiscal year ending June 30, 1972, and $605,000,000 for the fiscal year ending June 30, 1973, and for each succeeding fiscal year ending prior to October 1, [1979,] *1983*, except that no funds are authorized to be appropriated for obligation by the Commissioner during any year for which funds are available for obligation by the Commissioner for carrying out part C of title IV. In addition, there are hereby authorized to be appropriated for the fiscal year ending June 30, 1971, and for each succeeding fiscal year ending prior to October 1, [1979,] *1983*, such sums as may be necessary for the administration of State plans, the activities of advisory councils, and the evaluation and dissemination activities required under this title, except that no funds are authorized to be appropriated for obligation by the Commission during any year for which funds are available for obligation by the Commissioner for carrying out part C of title IV.

ALLOTMENT AMONG STATES

SEC. 302. (a)(1) There is hereby authorized to be appropriated for each fiscal year for the purposes of this paragraph an amount equal to not more than 1 per centum of the amount appropriated for such year for grants under this title. The Commissioner shall allot the amount appropriated pursuant to this paragraph among Guam, American Samoa, the Virgin Islands, *the Northern Mariana Islands*, and the Trust Territory of the Pacific Islands according to their respective needs for assistance under this title. In addition, he shall allot from such amount to (A) the Secretary of the Interior the amount necessary to provide programs and projects for the purpose of this title for individuals on reservations serviced by elementary and secondary schools operated for Indian children by the Department of the Interior, and (B) the Secretary of Defense the amount necessary for such assistance for children and teachers in the overseas dependents schools of the Department of Defense. The terms upon which payments for such purpose shall be made to the Secretary of the Interior and the Secretary of Defense shall be determined pursuant to such criteria as the Commissioner determines will best carry out the purposes of this title.

(2) From the sums appropriated for making grants under this title for any fiscal year pursuant to section 301(b), the Commissioner shall allot $200,000 to each State and shall allot the remainder of such sums among the States as follows:

(A) He shall allot to each State an amount which bears the same ratio to 50 per centum of such remainder as the number of children aged five to seventeen, inclusive, in the State bears to the number of such children in all the States, and

(B) He shall allot to each State an amount which bears the same ratio to 50 per centum of such remainder as the population of the State bears to the population of all the States.

For the purposes of this subsection, the term "State" does not include Guam, American Samoa, the Virgin Islands, *the Northern Mariana Islands*, and the Trust Territory of the Pacific Islands.

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STATE PLANS

SEC. 305. (a)(1) * * *

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(c) The Commissioner may, if he finds that a State plan for any fiscal year ending prior to October 1, [1979,] *1983*, is in substantial compliance with the requirements set forth in subsection (b), approve that part of the plan which is in compliance with such requirements and make available (pursuant to section 307) to that State that part of the State's allotment which he determines to be necessary to carry out that part of the plan so approved. The remainder of the amount which such State is eligible to receive under this section may be made available to such State only if the unapproved portion of that State plan has been so modified as to bring the plan into compliance with such requirements: *Provided*, That the amount made available to a State pursuant to this subsection shall not be less than 50 per centum of the maximum amount which the State is eligible to receive under this section.

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NATIONAL ADVISORY COUNCIL

SEC. 309. (a) * * *

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(c) The Council shall make an annual report of its findings and recommendations (including recommendations for changes in the provisions of this title) to the President and the Congress not later than

January 20 of each year. The President is requested to transmit to the Congress such comments and recommendations as he may have with respect to such report. Subject to section 448(b) of the General Education Provisions Act, the Council shall continue to exist until October 1, [1979] *1983*, except that the Council shall not exist during any year for which funds are available for obligation by the Commissioner for carrying out title IV.

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TITLE IV—LIBRARIES, LEARNING RESOURCES, EDUCATIONAL INNOVATION, AND SUPPORT

PART A—GENERAL PROVISIONS

AUTHORIZATION OF APPROPRIATIONS

SEC. 401. (a)(1) Subject to the provisions of paragraph (2), there is authorized to be appropriated the sum of $395,000,000 for obligation by the Commissioner during the fiscal year ending June 30, 1976, and such sums as may be necessary for obligation by the Commissioner during each succeeding year ending prior to October 1, [1979] *1983*, for the purpose of making grants under part B (Libraries and Learning Resources) of this title.

(2) No funds are authorized to be appropriated under this subsection for obligation by the Commissioner during any fiscal year unless—

(A)(i) the aggregate amount which would be appropriated under this subsection is at least equal to the aggregate amount appropriate for obligation by the Commissioner during the preceding fiscal year in which part B was in effect, or

(ii) in the case of appropriations under this subsection for the first fiscal year in which part B is effective, such amount is at least equal to the aggregate amount appropriated for obligation by the Commissioner for the fiscal year ending June 30, 1974, or for the preceding fiscal year, whichever is higher, under title II and so much of title III as relates to testing, guidance, and counseling of this Act, and under title III (except for section 305) of the National Defense Education Act of 1958, and

(B) the sums appropriated pursuant to this subsection are included in an Act making appropriations for the fiscal year prior to the fiscal year in which such sums will be obligated, and are made available for expenditure prior to the beginning of such fiscal year.

(b)(1) Subject to the provisions of paragraph (2), there is authorized to be appropriated the sum of [$350,000,000] *$450,000,000* for obligation by the Commissioner during the fiscal year ending June 30, 1976, and such sums as may be necessary for obligation by the Commissioner during each succeeding year ending prior to October 1, [1979] *1983*, for the purpose of making grants under part C (Educational Innovation and Support) of this title.

(2) No funds are authorized to be appropriated under this subsection for obligation by the Commissioner during any fiscal year unless—

(A)(i) the aggregate amount which would be appropriated under this subsection is at least equal to the aggregate amount appropriated for obligation by the Commissioner during the preceding fiscal year in which part C was in effect, or

(ii) in the case of appropriations under this subsection for the first fiscal year in which part C is effective, such amount is at least equal to the aggregate amount appropriated for obligation by the Commissioner for fiscal year ending June 30, 1974, or for the preceding fiscal year, whichever is higher, under title III (except for programs of testing, guidance, and counseling), title V, and sections 807 and 808 of this Act, and

(B) the sums appropriated pursuant to this subsection are included in an Act making appropriations for the first year prior to the fiscal year in which such sums will be obligated, and are made available for expenditure prior to the beginning of such fiscal year.

[(c)(1) In the first fiscal year in which appropriations are made pursuant to part B, 50 per centum of the funds so appropriated shall be available to the States to carry out part B of this title. The remainder of such funds shall be available to the States and shall be allotted to the States, or to the Commissioner, as the case may be, in such year, pursuant to title II and so much of title III as relates to testing, guidance, and counseling under this Act, and under title III (except for section 305) of the National Defense Education Act of 1958, for each such program in an amount which bears the same ratio to such remainder as the amount appropriated for each such program for the fiscal year ending June 30, 1974, or for the fiscal year preceding the fiscal year for which the determination is made, whichever is higher, bears to the aggregate of such appropriated amounts. The amounts made available under the second sentence of this paragraph shall be subject to the provisions of law governing each such program.

[(2) In the first fiscal year in which appropriations are made pursuant to part C, 50 per centum of the funds so appropriated shall be available to carry out part C of this title. The remainder of such funds shall be available to the States and shall be allotted to the States, or to the Commissioner, as the case may be, in such year, pursuant to title III (except for programs of testing, guidance, and counseling), title V, and sections 807 and 808 of this Act, for each such program in an amount which bears the same ratio to such remainder as the amount appropriated for each such program for the fiscal year ending June 30, 1974, or for the fiscal year preceding the fiscal year for which the determination is made, whichever is higher, bears to the aggregate of such appropriated amounts. The amount made available under the second sentence of this paragraph shall be subject to the provisions of law governing each such program.]

(c)(1) There are authorized to be appropriated $80,000,000 for obligation by the Commissioner during the fiscal year ending September 30, 1980, and such sums as may be necessary for obligation by the Commissioner during each of the succeeding fiscal years ending prior to October 1, 1983, for the purpose of making grants under part D of this title.

(2) Notwithstanding the provisions of subsections (a)(1) and (b)(1) and paragraph (1) of this subsection—

(A) no funds are authorized to be appropriated pursuant to any of such subsections or paragraph for any fiscal year unless appropriations for that fiscal year are made pursuant to both such subsections and to such paragraph; and

(B) no funds are authorized to be appropriated pursuant to subsections (a)(1) and (b)(1) for the fiscal year which is the first fiscal year for which appropriations are made under this subsection unless the amount appropriated for such fiscal year pursuant to this subsection is at least equal to $18,000,000; and, thereafter, no funds are authorized to be appropriated pursuant to subsections (a)(1) and (b)(1) for any fiscal year unless the amount appropriated for that fiscal year pursuant to this subsection is at least equal to the amount appropriated the preceding fiscal year.

(d) There are authorized to be appropriated for obligation by the Commissioner during each fiscal year ending prior to October 1, [1979,] *1983* such sums as may be necessary for the purpose of increasing the allotment under section 402(a)(2) for that year to any State to a level of funding which equals the amounts of funds received by that State for the fiscal year ending June 30, 1974, for programs under title II, title III, title V, and sections 807 and 808 of this Act, and title III (except for section 305) of the National Defense Education Act of 1958.

ALLOTMENT TO THE STATES

SEC. 402. (a)(1) There is hereby authorized to be appropriated for each fiscal year for the purposes of this paragraph amounts equal to not more than 1 per centum of each of the amounts appropriated for such year under [subsections (a) or (b), or both] *subsection (a), (b), or (c), or all or any of such subsections,* of section 401. The Commissioner shall allot each of the amounts appropriated pursuant to this paragraph among Guam, American Samoa, the Virgin Islands, and the Trust Territory of the Pacific Islands according to their respective needs for assistance under [part B or part C, or both,] *the appropriate parts* of this title. In addition, for each fiscal year he shall allot from each of such amounts to (A) the Secretary of the Interior the amounts necessary for the programs authorized by each such part for children and teachers in elementary and secondary schools operated for Indian children by the Department of the Interior, and (B) the Secretary of Defense the amounts necessary for the programs authorized by each such part for children and teachers in the overseas dependents schools of the Department of Defense. The terms upon which payment for such purposes shall be made to the Secretary of the Interior and the Secretary of Defense shall be determined pursuant to such criteria as the Commissioner determines will best carry out the purposes of this title.

(2) From the amounts appropriated to carry out part B or part C, or [both] *part D, as the case may be,* of this title for and fiscal year pursuant to subsections (a) [and], (b), *and (c)* of section 401, the Commissioner shall allot to each State from each such amount an amount which bears the same ratio to such amount as the number of children aged five to seventeen, inclusive, in the State bears to the number of such children in all the States. For the purposes of this subsec-

tion, the term "State" shall not include Guam, American Samoa, the Virgin Islands, and the Trust Territory of the Pacific Islands. The number of children aged five to seventeen, inclusive, in a State and in all the States shall be determined by the Commissioner on the basis of the most recent satisfactory data available to him.

(b) The amount of any State's allotment under subsection (a) for any fiscal year to carry out part B [or C] *C, or D, as the case may be* which the Commissioner determines will not be required for such fiscal year to carry out such part shall be available for reallotment from time to time, on such dates during such year as the Commissioner may fix, to other States in proportion to the original allotments to such States under subsection (a) for that year but with such proportionate amount for any of such other States being reduced to the extent it exceeds the sum the Commissioner estimates such State needs and will be able to use for such year; and the total of such reductions shall be similarly reallotted among the States whose proportionate amounts were not so reduced. Any amounts reallotted to a State under this subsection during a year from funds appropriated pursuant to section 401 shall be deemed a part of its allotment under subsection (a) for such year.

STATE PLANS

SEC. 403. (a) Any State which desires to receive grants under this title shall establish an advisory council as provided by subsection (b) and shall submit to the Commissioner a State plan, in such detail as the Commissioner deems necessary, which—

(1) designates the State education agency as the State agency which shall, either directly or through arrangements with other State or local public agencies, act as the sole agency for the administration of the State plan;

(2) sets forth a program under which funds paid to the State from its allotments under section 402 will be expended solely for the programs and purposes authorized by parts B [and] C, *and D* of this title, and for administration of the State plan;

(3) provides assurances that the requirements of section 406 (relating to the participation of pupils and teachers in nonpublic elementary and secondary schools) will be met, or certifies that such requirements cannot legally be met in such State;

(4) provides assurances that (A) funds such agency receives from appropriations made under section 401(a) will be distributed among local educational agencies according to the enrollments in public and nonpublic schools within the school districts of such agencies, except that substantial funds will be provided to (i) local educational agencies whose tax effort for education is substantially greater than the State average tax effort for education, but whose per pupil expenditure (excluding payments made under title I of this Act) is no greater than the average per pupil expenditure in the State and (ii) local educational agencies which have the greatest numbers of percentages of children whose education imposes a higher than average cost per child, such as children from low-income families, children living in sparsely populated areas, and children from families in which English is

not the dominant language; and (B) funds such agency receives from appropriations made under section 401(b) will be distributed among local education agencies on an equitable basis recognizing the competitive nature of the grantmaking except that the State educational agency shall provide assistance in formulating proposals and in operating programs to local educational agencies which are less able to compete due to small size or lack of local financial resources; and the State plan shall set forth the specific criteria the State educational agency has developed and will apply to meet the requirements of this paragraph;

(5) provides that each local educational agency will be given complete discretion (subject to the provisions of section 406) in determining how the funds it receives from appropriations made under section 401(a) will be divided among the various programs described in section 421, *except that the State educational agency shall insure that each local educational agency, in making that determination, has adopted appropriate procedures, including periodic consultation with teachers, librarians, media specialists, and other professional staff in the schools, and private school officials, to coordinate the selection of instructional equipment and materials under this part with curricula being carried out in the schools of that agency, and* except that, in the first year in which appropriations are made pursuant to part B, each local educational agency will be given complete discretion with respect to 50 per centum of the funds appropriated for that part attributable to that local educational agency;

(6) provides for the adoption of effective procedures (A) for an evaluation by the State advisory council, at least annually, of the effectiveness of the program and projects assisted under the State plan, (B) for the appropriate dissemination of the results of such evaluations and other information pertaining to such programs or projects, and (C) for the adoption, where appropriate, of promising educational practices developed through innovative programs supported under part C;

[(7) provides that local educational agencies applying for funds under any program under this title shall be required to submit only one application for such funds any one fiscal year;]

[(8)] (7) provides—

(A) that, of the funds the State receives under [section 401] *sections 401(a) and 401(b)* for the first fiscal year for which such funds are available, such agency will use for administration of the State plan not to exceed whichever is greater (i) 5 per centum of the amount so received ([$50,000] *$75,000* in the case of Guam, American Samoa, the Virgin Islands, *the Northern Mariana Islands*, and the Trust Territory of the Pacific Islands), excluding any part of such amount used for purposes of section 431(a)(3), or (ii) the amount it received for the fiscal year ending June 30, 1973, for administration of the programs referred to in sections 421 (b) and 431(b), and that the remainder of such funds shall be made available to local educational agencies to be used for the purposes of parts B and C, respectively; and that, of the funds the State receives under [section 401] *sections 401(a) and 401(b)* for fiscal years thereafter, it will use for administration of the State plan not to exceed whichever is greater (i) 5 per centum of the amount so received ([$50,000] *$75,000* in the case of Guam, American Samoa, the Virgin Islands, *the Northern Mariana Islands*, and the Trust Territory of the Pacific Islands), excluding any part of such amount used for purposes of section 431(a)(3), or (ii) $225,000, and that the remainder of such funds shall be made available to local educational agencies to be used for purposes of parts B and C, respectively.

(B) that not less than 15 per centum of the amount received pursuant to section 401(b) in any fiscal year (not including any amount used for purposes of section 431(a)(3)) shall be used for special programs or projects for the education of children with specific learning disabilities and handicapped children, and

(C) that not more than the greater of (i) 15 per centum of the amount which such State receives pursuant to section 401(b) in any fiscal year, or (ii) the amount available by appropriation to such State in the fiscal year ending June 30, 1973, for purposes covered by section 431(a)(3), shall be used for purposes of section 431(a)(3) (relating to strengthening State and local educational agencies);

[(9)] *(8)* provides assurances that in the case of any project for the repair, remodeling, or construction of facilities, that the facilities shall be accessible to and usable by handicapped persons;

[(10)] *(9)* sets forth policies and procedures which give satisfactory assurance that Federal funds made available under this title for any fiscal year will not be commingled with State funds; [and]

[(11)] *(10)* gives satisfactory assurance that the aggregate amount to be expended per student or the aggregate expenditure by the State, its local educational agencies, and private schools in such State from funds derived from non-Federal sources for programs described in section 421(a) and section 431(a) for the preceding fiscal year were not less than the amount per student expended or the aggregate expenditure for the second preceding year[.] *;*

(11) sets forth the means by which the State will make information and technical assistance available to private nonprofit school officials who desire to arrange for children in those schools to participate in Federal elementary and secondary education programs; and

(12) sets forth a comprehensive plan for the coordination of Federal and State funds for training activities for educational personnel in the State including preservice and inservice training, which plan shall be developed with the involvement of teachers, professional associations, institutions of higher education, and other interested individuals.

(b)(1) The State advisory council, established pursuant to subsection (a), shall—

(A) be appointed by the State educational agency or as otherwise provided by State law and be broadly representative of the cultural and educational resources of the State (as defined in section 432) and of the public, including persons representative of—

(i) public and private elementary and secondary schools,

(ii) institutions of higher education, [and]

(iii) fields of professional competence in dealing with children needing special education because of physical or mental handicaps, specific learning disabilities, severe educational disadvantage, and limited English-speaking ability or because they are gifted or talented, and of professional competence in guidance and counseling [;], *and*

(iv) school librarians, personnel involved in operating media programs in local schools, and guidance counselors;

* * * * * * *

[(5) During the fiscal year preceding the first fiscal year for which funds are appropriated pursuant to any part of this title, the State educational agency may use administrative funds available to the State under any program specified in section 401(c) for the purpose of carrying out the requirements of this subsection.]

* * * * * * *

PAYMENTS TO STATES

SEC. 405. From the amounts allotted to each State under section 402 for carrying out the programs authorized by parts B [and C] *C, and D*, respectively, the Commissioner shall pay to that State an amount equal to the amount expended by the State in carrying out its State plan (after withholding any amount necessary pursuant to section 406(f)).

[PARTICIPATION OF CHILDREN ENROLLED IN PRIVATE SCHOOLS

[SEC. 406. (a) To the extent consistent with the number of children in the school district of a local educational agency (which is a recipient of funds under this title or which serves the area in which a program or project assisted under this title is located) who are enrolled in private nonprofit elementary and secondary schools, such agency, after consultation with the appropriate private school officials, shall provide for the benefit of such children in such schools secular, neutral and nonideological services, materials, and equipment including the repair, minor remodeling, or construction of public school facilities as may be necessary for their provision (consistent with subsection (c) of this section), or if such services, materials, and equipment are not feasible or necessary in one or more such private schools as determined by the local educational agency after consultation with the appropriate private school officials, shall provide such other arrangements as will assure equitable participation of such children in the purposes and benefits of this title.

[(b) Expenditures for programs pursuant to subsection (a) shall be equal (consistent with the number of children to be served) to expenditures for programs for children enrolled in the public schools of the local educational agency, taking into account the needs of the individual children and other factors (pursuant to criteria supplied by the Commissioner) which relate to such expenditures, and when funds available to a local educational agency under this title are used to concentrate programs or projects on a particular group, attendance area, or grade or age level, children enrolled in private schools who are included within the group, attendance areas, or grade or age level selected for such concentration shall, after consultation with the appropriate private school officials, be assured equitable participation in the purposes and benefits of such programs or projects.

[(c) (1) The control of funds provided under this title and title to materials, equipment, and property repaired, remodeled, or constructed therewith shall be in a public agency for the uses and purposes provided in this title, and a public agency shall administer such funds and property.

[(2) The provisions of services pursuant to this section shall be provided by employees of a public agency or through contract by such public agency with a person, an association, agency, or corporation who or which in the provision of such services is independent of such private school and of any religious organization, and such employment or contract shall be under the control and supervision of such public agency, and the funds provided under this title shall not be commingled with State or local funds.

[(d) If a State is prohibited by law from providing for the participation in programs of children enrolled in private elementary and secondary schools, as required by this section, the Commissioner may waive such requirement and shall arrange for the provision of services to such children through arrangements which shall be subject to the requirements of this section.

[(e) If the Commissioner determines that a State or local educational agency has substantially failed to provide for the participation on an equitable basis of children enrolled in private elementary and secondary schools as required by this section, he may waive such requirements and shall arrange for the provision of services to such children through arrangements which shall be subject to the requirements of this section.

[(f) When the Commissioner arranges for services pursuant to this section, he shall, after consultation with the appropriate public and private school officials, pay the cost of such services from the appropriate allotment of the State under this title.

[(g) (1) The Commissioner shall not take any final action under this section until he has afforded the State educational agency and local educational agency affected by such action at least sixty days notice of his proposed action and an opportunity for a hearing with respect thereto on the record.

[(2) If a State or local educational agency is dissatisfied with the Commissioner's final action after a hearing under subparagraph (A) of this paragraph, it may within sixty days after notice of such action, file with the United States court of appeals for the circuit in which such State is located a petition for review of that action. A copy of the petition shall be forthwith transmitted by the clerk of the court to the Commissioner. The Commissioner thereupon shall file in the court the record of the proceedings on which he based his action, as provided in section 2112 of title 28, United States Code.

[(3) The findings of fact by the Commissioner, if supported by substantial evidence, shall be conclusive; but the court, for good cause shown, may remand the case to the Commissioner to take further evidence, and the Commissioner may thereupon make new or modified findings of fact and may modify his previous action, and shall file in the court the record of the further proceedings. Such new or modified findings of fact shall likewise be conclusive if supported by substantial evidence.

[(4) Upon the filing of such petition, the court shall have jurisdiction to affirm the action of the Commissioner or to set it aside, in whole or in part. The judgment of the court shall be subject to review by the Supreme Court of the United States upon certiorari or certification as provided in section 1254 of title 28, United States Code.]

PARTICIPATION OF CHILDREN ENROLLED IN PRIVATE SCHOOLS

Sec. 406. (a)(1) To the extent consistent with the number of children in the school district of a local educational agency which is eligible to receive funds under this title or which serves the area in which a program or project assisted under this title is located who are enrolled in private nonprofit elementary and secondary schools, such agency, after consultation with the appropriate private school officials, shall provide for the benefit of such children in such schools secular, neutral, and nonideological services, materials, and equipment including the repair, minor remodeling, or construction of public facilities as may be necessary for their provision (consistent with subsection (c) of this section), or, if such service, materials, and equipment are not feasible or necessary in one or more such private schools as determined by the local educational agency after consultation with the appropriate private school officials, shall provide such other arrangements as will assure equitable participation of such children in the purposes and benefits of this title.

(2) If no program or project is carried out under part B in the school district of a local educational agency, the State educational agency shall make arrangements, such as through contracts with nonprofit private agencies or organizations, under which children in private schools in such district are provided with services and materials under such part to the extent that would have occurred if the local educational agency had received funds under this title.

(b) Expenditures for programs pursuant to subsection (a) shall be equal (consistent with the number of children to be served) to expenditures for programs under this title for children enrolled in the public schools of the local educational agency, taking into account the needs of the individual children and other factors which relate to such expenditures. When funds available to a local educational agency under this title are used to concentrate programs or projects on a particular group, attendance area, or grade or age level, children enrolled in private schools who are included within the group, attendance areas,

or grade or age level selected for such concentration shall, after consultation with the appropriate private school officials, be assured equitable participation in the purposes and benefits of such programs or projects.

(c)(1) The control of funds provided under this title and title to materials, equipment, and property repaired, remodeled, or constructed therewith shall be in a public agency for the uses and purposes provided in this title, and a public agency shall administer such funds and property.

(2) Services pursuant to this section shall be provided by employees of a public agency or through contract by such public agency with a person, an association, agency, or corporation who or which in the provision of such services is independent of such private school and of any religious organizations, and such employment or contract shall be under the control and supervision of such public agency, and the funds provided under this title shall not be commingled with State or local funds.

(d) If a State is prohibited by law from providing for the participation in programs of children enrolled in private elementary and secondary schools, as required by this section, the Commissioner shall waive such requirements and shall arrange for the provision of services to such children through arrangements which shall be subject to the requirements of this section.

(e)(1) If the Commissioner determines that a State or a local educational agency has substantially failed or is unwilling to provide for the participation on an equitable basis of children enrolled in private elementary and secondary schools as required by this section, he may waive such requirements and shall arrange for the provision of services to such children through arrangements which shall be subject to the requirements of this section.

(2) Pending final resolution of any investigation or complaint that could result in a determination under this subsection or subsection (d), the Commissioner may withhold from the allocation of the affected State or local educational agency the amount he estimates would be necessary to pay the cost of those services.

(f) Any determination by the Commissioner under this section shall continue in effect until the Commissioner determines that there will no longer be any failure or inability on the part of the State or local educational agency to meet the requirements of subsections (a) and (b).

(g) When the Commissioner arranges for services pursuant to this section, he shall, after consultation with the appropriate public and private school officials, pay the cost of such services, including the administrative costs of arranging for those services, from the appropriate allotment of the State under this title.

(h) The Commissioner shall not take any final action under this section until the State educational agency and local educational agency affected by such action have had an opportunity, for at least forty-five days after receiving written notice thereof, to submit written objections and to appear before the Commissioner or his designee to show cause why that action should not be taken.

PART B—LIBRARIES AND LEARNING RESOURCES

PROGRAM AUTHORIZED

SEC. 421. (a) The Commissioner shall carry out a program for making grants to the States (pursuant to State plans approved under section 403)—

(1) for the acquisition of school library resources, textbooks, and other printed and published instructional materials for the use of children and teachers in public and private elementary and secondary schools, *which materials shall be used for instructional purposes only;*

(2) for the acquisition of instructional equipment (including laboratory and other special equipment, including audio-visual materials and equipment suitable for use in providing education in academic subjects) for use by children and teachers in elementary and secondary schools, and for minor remodeling of laboratory or other space used by such schools for such equipment, *which equipment and materials shall be used for instructional purposes only.* **[**; and**]**

[(3) for (A) a program of testing students in the elementary and secondary schools, (B) programs of counseling and guidance services for students at the appropriate levels in elementary and secondary schools designed (i) to advise students of courses of study best suited to their ability, aptitude, and skills, (ii) to advise students with respect to their decisions as to the type of educational program they should pursue, the vocation they should train for and enter, and the job opportunities in the various fields, and (iii) to encourage students to complete their secondary school education, take the necessary courses for admission to postsecondary institutions suitable for their occupational or academic needs, and enter such institutions, and such programs may include short-term sessions for persons engaged in guidance and counseling in elementary and secondary schools, and (C) programs, projects, and leadership activities designed to expand and strengthen counseling and guidance services in elementary and secondary schools.**]**

(b) It is the purpose of this part to combine within a single authorization, subject to the modifications imposed by the provisions and requirements of this title, the programs authorized by title II **[**and so much of title III as relates to testing, counseling, and guidance,**]** of this Act, and title III (except for section 305 thereof) of the National Defense Education Act of 1958, and funds appropriated to carry out this part must be used only for the same purposes and for the funding of the same types of programs authorized under those provisions.

PART C—EDUCATIONAL INNOVATION AND SUPPORT

PROGRAMS AUTHORIZED

SEC. 431. (a) The Commissioner shall carry out a program for making grants to the States (pursuant to State plans approved under section 403)—

(1) for supplementary educational centers and services to stimulate and assist in the provision of vitally needed educational services (including preschool education, special education, compensatory education, vocational education, education of gifted and talented children, and dual enrollment programs) not available in sufficient quantity or quality, and to stimulate and assist in the development and establishment of exemplary elementary and secondary school programs (including the remodeling, lease, or construction of necessary facilities) to serve as models for regular school programs;

(2) for the support of demonstration projects by local educational agencies designed to improve nutrition and health services in public and private elementary and secondary schools serving areas with high concentrations of children from low-income families and such projects may include payment of the cost of (A) coordinating nutrition and health service resources in the areas to be served by a project, (B) providing supplemental health, mental health, nutritional, and food services to children from low-income families when the resources for such services available to the applicant from other sources are inadequate to meet the needs of such children, (C) nutrition and health programs designed to train professional and other school personnel to provide nutrition and health services in a manner which meets the needs of children from low-income families for such services, and (D) the evaluation of projects assisted with respect to their effectiveness in improving school nutrition and health services for such children;

(3) for strengthening the leadership resources of State and local educational agencies, and for assisting those agencies in the establishment and improvement of programs to identify and meet educational needs of States and of local school districts; [and]

(4) for making arrangements with local educational agencies for the carrying out by such agencies in schools which (A) are located in urban or rural areas, (B) have a high percentage of children from low-income families, and (C) have a high percentage of such children who do not complete their secondary school education, of demonstration projects involving the use of innovative methods, systems, materials, or programs which show promise of reducing the number of such children who do not complete their secondary school education[.]*; and*

(5) for developing and implementing model plans to demonstrate effective means of improving school management and fully coordinating all the Federal, State, and local resources available in a school in a manner designed to meet the individual needs of every child in such school.

* * * * * * *

(c)(1) Funds available to the States under this part shall also be used (pursuant to State plans approved under section 403) for the purpose of encouraging innovation and improvement in compensatory education efforts. Such efforts may include but need not be limited to the following:

(A) programs of grants to local educational agencies for summer bridge programs which provide students with continued aca-

demic improvement and stimulation during the summer months in order to preserve and increase the academic progress of such students in regular school year programs;

(B) programs of parent education which enable parents to better contribute to their children's academic progress by such means as the conducting of parent education or parenting programs which promote partnership between parents and teachers and help parents develop the skills necessary to motivate and assist such children;

(C) programs that provide retraining to improve the skills of teachers and other educational personnel to enable such personnel to meet better the specific educational needs of the children served by such personnel; and

(D) programs to develop educational materials for use by children in the home to improve student achievement in the basic skills.

(2) Each State shall ensure that not less than 50 per centum of those funds appropriated for any fiscal year which exceed the amount appropriated for this part for the fiscal year ending September 30, 1979, will be used for the purposes of programs described in paragraph (1).

(d) Funds may be provided to a local educational agency under this part for a particular activity for a period of not to exceed five fiscal years (excluding any period for which such agency received a planning grant for such activity), subject to the availability of appropriations for this part for each fiscal year. The amount provided to a local educational agency for any activity under this part shall decline after the third year, in accordance with criteria prescribed by the Commissioner in order to ensure that successful practices developed with assistance under this part will be adopted and supported as part of the regular program of such agency.

PART D—GUIDANCE, COUNSELING, AND TESTING PROGRAM

SEC. 451. (a) The Commissioner shall carry out a program of making grants to the States to support guidance and counseling activities in the States for—

(1) State leadership and supervisory services in the fields of guidance, counseling, and testing; and

(2) comprehensive guidance, counseling, and testing programs in elementary and secondary schools throughout the State, including such services as—

(A) elementary and secondary school counseling,

(B) in-service training for guidance and counseling personnel,

(C) supervision and leadership services at the local level,

(D) program planning and development,

(E) special guidance and counseling programs suited to meet the special needs for such programs by persons who are disadvantaged,

(F) a program of testing students in elementary and secondary schools, and

(G) evaluation of such programs.

(b) In addition to the activities described in subsection (a) the State educational agency may enter into contracts and make grants to State and local educational agencies, to institutions of higher education, and to private nonprofit organizations to assist them in conducting institutes, workshops, and seminars designed to improve the professional guidance qualifications of teachers and counselors in State and local educational agencies and nonpublic elementary and secondary school systems. Such programs may include (1) opportunities for teachers and guidance counselors in such agencies and systems to obtain experience in business and industry, the professions, and other occupational pursuits, (2) for the purpose of such improvement, such programs, services, or activities which bring individuals with experience in such pursuits into schools as counselors or advisors for students, and which bring students into the workplaces of such pursuits to acquaint students with the nature of the work, and (3) programs which provide training for supervisory and technical personnel in such agencies and systems having responsibilities for guidance and counseling, and which improve supervisory services in the field of guidance and counseling.

(c) Of the sums allotted to any State for any fiscal year for the purposes of this part, not to exceed 7½ per centum shall be available for the purpose described in clause (1) of subsection (a).

(d) The Commissioner shall establish or designate an administrative unit within the Education Division for purposes of—

(1) carrying out provisions of this part;

(2) providing information regarding guidance and counseling as a profession, guidance and counseling activities of the Federal Government, and, to the extent practicable, activities of State and local programs of guidance and counseling; and

(3) advising the Commissioner on coordinating guidance and counseling activities included in all programs which he is authorized to carry out, and, to the extent he deems practicable, how such activities may be coordinated with other programs of the Federal Government and State and local guidance and counseling programs.

TITLE V—STRENGTHENING STATE AND LOCAL EDUCATIONAL AGENCIES

PART A—GRANTS TO STRENGTHEN STATE DEPARTMENTS OF EDUCATION

APPROPRIATIONS AUTHORIZED

SECTION 501. (a) The Commissioner shall carry out a program for making grants to stimulate and assist States in strengthening the leadership resources of their State educational agencies, and to assist those agencies in the establishment and improvement of programs to identify and meet the educational needs of States.

(b) For the purpose of making grants under this part, there is hereby authorized to be appropriated the sum of $25,000,000 for the fiscal year ending June 30, 1966, $30,000,000 for the fiscal year ending June

30, 1967, $65,000,000 for the fiscal year ending June 30, 1968, $80,000,000 each for the fiscal years ending June 30, 1969, June 30, 1970, and June 30, 1971, $85,000,000, for the fiscal year ending June 30, 1972, and $90,000,000 for the fiscal year ending June 30, 1973 and each succeeding fiscal year ending prior to October 1, [1979,] *1983*, except that no funds are authorized to be appropriated for obligation by the Commissioner during any year for which funds are available for obligation by the Commissioner for carrying out part C of title IV.

SEC. 502. (a)(1) From 95 per centum of the sums appropriated for carrying out this part for each fiscal year, the Commissioner shall reserve such amount, but not in excess of 1 per centum of such 95 per centum of such sums, as he may determine and shall apportion such amount among Guam, American Samoa, *the Northern Mariana Islands*, the Virgin Islands, and the Trust Territory of the Pacific Islands according to their respective needs for assistance under this part. The remainder of such per centum of such sums shall be apportioned by the Commissioner as follows:

(A) He shall apportion 40 per centum of such remainder among the States in equal amounts.

(B) He shall apportion to each State an amount that bears the same ratio to 60 per centum of such remainder as the number of public school pupils in the State bears to the number of public school pupils in all the States, as determined by the Commissioner on the basis of the most recent satisfactory data available to him.

For purposes of this paragraph, the term "State" does not include the Commonwealth of Puerto Rico, Guam, American Samoa. *the Northern Mariana Islands*, the Virgin Islands, and the Trust Territory of the Pacific Islands.

(2) Five per centum of the sums appropriated pursuant to section 501 for each fiscal year shall be reserved by the Commissioner for grants for special projects pursuant to section 505.

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PART B—LOCAL EDUCATIONAL AGENCIES

APPROPRIATIONS AUTHORIZED

SEC. 521. (a) The Commissioner shall carry out a program for making grants to stimulate and assist local educational agencies in strengthening the leadership resources of their districts, and to assist those agencies in the establishment and improvement of programs to identify and meet the educational needs of their districts.

(b) For the purpose of making grants under this part, there is hereby authorized to be appropriated the sum of $10,000,000 for the fiscal year ending June 30, 1970, $20,000,000 for the fiscal year ending June 30, 1971, $30,000,000 for the fiscal year ending June 30, 1972, and $40,000,000 for the fiscal year ending June 30, 1973, and each succeeding fiscal year ending prior to October 1, [1979,] *1983*, except that no funds are authorized to be appropriated for obligation by the Commissioner during any year for which funds are available for obligation by the Commissioner for carrying out part C of title IV.

APPORTIONMENT AMONG STATES

SEC. 522. (a) From the sums appropriated for carrying out this part for each fiscal year, the Commissioner shall reserve such amount, but not in excess of 1 per centum of such sums, as he may determine and shall apportion such amount among Guam, American Samoa, *the Northern Mariana Islands*, the Virgin Islands, and the Trust Territory of the Pacific Islands according to their respective needs for assistance under this part. The remainder of such sums shall be apportioned by the Commissioner as follows:

(A) He shall apportion 40 per centum of such remainder among the States in equal amounts.

(B) He shall apportion to each State an amount that bears the same ratio to 60 per centum of such remainder as the number of public school pupils in the State bears to the number of public school pupils in all the States, as determined by the Commissioner on the basis of the most recent satisfactory data available to him.

For purposes of this paragraph, the term "State" does not include Guam, American Samoa, *the Northern Mariana Islands*, the Virgin Islands, and the Trust Territory of the Pacific Islands.

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PART C—COMPREHENSIVE EDUCATIONAL PLANNING AND EVALUATION

AUTHORIZATION

SEC. 531. (a) The Commissioner is authorized to make comprehensive planning and evaluation grants to State and local educational agencies in order to assist and stimulate them to enhance their capability to make effective progress, through comprehensive and continuing planning and evaluation, toward the achievement of opportunities for high-quality education for all segments of the population.

(b) For the purpose of carrying out the provisions of this part, there are hereby authorized to be appropriated $10,000,000 for the fiscal year ending June 30, 1971, $15,000,000 for the fiscal year ending June 30, 1972, and $20,000,000 for the fiscal year ending June 30, 1973, and each succeeding fiscal year ending prior to October 1, [1979,] *1983*, except that no funds are authorized to be appropriated for obligation during any year for which funds are available for obligation for carrying out part C of title IV.

(c) (1) (A) From the sums appropriated for carrying out this part for each fiscal year, the Commissioner shall reserve such amount, but not in excess of 1 per centum of such per centum, as he may determine and shall apportion such amount among Guam, American Samoa, *the Northern Mariana Islands*, the Virgin Islands, and the Trust Territory of the Pacific Islands according to their respective needs for assistance under this part. The remainder shall be apportioned by the Commissioner as follows:

(i) He shall apportion 40 per centum of such remainder among the States in equal amounts.

(ii) He shall apportion to each State an amount that bears the same ratio to 60 per centum of such remainder as the population of the State bears to the population of all the States, as determined by the Commissioner on the basis of the most recent satisfactory data available to him.

(B) For purposes of this paragraph (1), the term "State" does not include Guam, American Samoa, *the Northern Mariana Islands*, the Virgin Islands, and the Trust Territory of the Pacific Islands.

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TITLE VI—MISCELLANEOUS EDUCATIONAL PROGRAMS

PART A—NATIONAL READING AND MATHEMATICS IMPROVEMENT PROGRAM

STATEMENT OF PURPOSE

SEC. 601. It is the purpose of this part to provide financial assistance to the States to enable them—

(1) to provide financial assistance for (A) projects designed to strengthen reading and mathematics instruction in elementary and secondary grades, (B) projects for the development and enhancement of necessary skills of instructional and other educational staff for reading and mathematics programs, (C) projects to establish measurable objectives for reading and mathematics programs and to assess progress toward those objectives, (D) projects to develop the capacity of preelementary school children for reading and mathematics or to establish or improve preelementary school programs in language arts and reading and mathematics, or (E) projects to promote literacy among youth and adults;

(2) to develop comprehensive programs to improve reading and mathematics proficiency and instruction in reading and mathematics in the elementary and secondary schools of the State;

(3) to provide State leadership in the planning, improving, execution, and evaluation of reading and mathematics programs in elementary and secondary schools; and

(4) to arrange for and assist in the training of special reading and mathematics personnel and specialists needed in programs assisted under this part.

ALLOTMENTS TO STATES

SEC. 602. (a)(1) From the sums appropriated pursuant to section 609(a) for each fiscal year which are available for carrying out this section and section 603, the Commissioner shall reserve such amount, but not in excess of 1 per centum of such sums, as he may determine, and shall apportion such amount to Guam, American Samoa, the Virgin Islands, the Northern Mariana Islands, and the Trust Territory of the Pacific Islands according to their respective needs for assistance under this part. Of the remainder of such sums, he shall allot an amount to each State which bears the same ratio to the amount available for allotment as the number of school age children (aged 5 to 17, inclusive) in each such State bears to the total number of such children in all the States, as determined by the Commissioner on the basis of the most recent satisfactory data available to him. The allotment of a State *which would be less than $50,000 under the preceding sentence shall be increased to $50,000, and the total of the increases thereby required shall be derived by proportionally reducing the allotments to the remaining States under the preceding sentence, but with such adjustments as may be necessary to prevent the allotments to any such remaining States from being reduced to less than $50,000.*

(2) For the purpose of this section the term "State" includes the District of Columbia and the Commonwealth of Puerto Rico.

(b) The amount allotted to any State under subsection (a) for any fiscal year which the Commissioner determines will not be required for that year shall be available for reallotment from time to time, on such dates during that year as the Commissioner may fix, to other States in proportion to the amounts originally allotted among those States under subsection (a) for that year, but with the proportionate amount for any of the other States being reduced to the extent it exceeds the sum the Commissioner estimates the local educational agencies of such State need and will be able to use for that year; and the total of these reductions shall be similarly reallotted among the States whose proportionate amounts were not so reduced. Any amount reallotted to a State under this subsection from funds appropriated pursuant to section 609(a) for any fiscal year shall be deemed part of the amount allotted to it under subsection (a) for that year.

AGREEMENTS WITH STATE EDUCATIONAL AGENCIES

SEC. 603. (a) Any State which desires to receive grants under section 602 shall, through its State educational agency, enter into an agreement with the Commissioner, in such detail as the Commissioner deems necessary, which—

(1) designates the State educational agency as the sole agency for administration of the agreement;

(2) provides for the establishment of a State advisory council on reading and mathematics, appointed by the State educational agency, which shall be broadly representative of the educational resources of the State and of the general public, including persons representative of—

(A) public and private nonprofit elementary and secondary school children,

(B) institutions of higher education,

(C) parents of elementary and secondary school children, and

(D) areas of professional competence relating to instruction in reading and mathematics,

to advise the State educational agency on the formulation of a standard of excellence for reading and mathematics programs in the elementary and secondary schools and on the preparation of, and policy matters arising in the administration of, the agreement (including the criteria for approval of applications for assistance under such agreement) and in the evaluation of results of the program carried out pursuant to the agreement;

(3) describes the reading and mathematics programs in elementary and secondary schools for which assistance is sought under section 602 and this section and procedures for giving priority to

reading and mathematics programs which are already receiving Federal financial assistance and show reasonable promise of achieving success;

(4) sets forth procedures for the submission of applications by local educational agencies within that State, including procedures for an adequate description of the reading and mathematics programs for which assistance is sought under section 602 and this section, and including a requirement that each such application shall set forth a reading and mathematics program which meets the requirements of subsection (f);

(5) sets forth criteria for achieving an equitable distribution of that part of the assistance under section 602 and this section which is made available to local educational agencies pursuant to the second sentence of subsection (b) of this section, which criteria shall—

(A) take into account the size of the population to be served, beginning with preschool, the relative needs of pupils in different population groups within the State for the program authorized by this part, and the financial ability of the local educational agency serving such pupils,

(B) assure that such distribution shall include grants to local educational agencies having high concentrations of children with low reading or mathematics proficiency, and

(C) assure an equitable distribution of funds among urban and rural areas;

(6) sets forth criteria for the selection or designation and training of personnel (such as reading or mathematics specialists and administrators of reading programs) engaged in programs assisted under section 602 and this section, including training for private elementary and secondary school personnel, which shall include qualifications acceptable for such personnel;

(7) provides for the coordination and evaluation of programs assisted under section 602 and this section;

(8) provides for technical assistance and support services for local educational agencies participating in the program;

(9) makes provision for the dissemination to the educational community and the general public of information about the objectives of the program and results achieved in the course of its implementation;

(10) provides for making a report, at least once every three years, and such other reports, in such form and containing such information, as the Commissioner may reasonably require to evaluate the effectiveness of the program and to carry out his other functions under this part;

(11) provides that not more than 5 per centum of the amount allotted to the State under section 602 for any fiscal year may be retained by the State educational agency for purposes of administering the agreement;

(12) provides that programs assisted under section 602 and this section shall be of sufficient size, scope, and quality so as to give reasonable promise of substantial progress toward achieving the purposes of this part; and

(13) provides that Federal funds expended under the program will supplement the level of State and local funds that would be available for such programs in the absence of Federal assistance, and in no event will supplant such State and local funds.

(b) Grants for projects to carry out the purposes of section 602 and this section may be made to local educational agencies (subject to the provision of subsection (e) relating to the participation of private elementary and secondary school pupils), institutions of higher education, and other public and nonprofit private agencies and institutions. Not less than 60 per centum of the amount allotted to a State under section 602 for any fiscal year shall be made available by the State for grants to local educational agencies within that State.

(c) The Commissioner shall enter into an agreement which complies with the provisions of subsection (a) with any State which desires to enter into such an agreement.

(d) The Commissioner's final action with respect to entering into an agreement under subsection (a) shall be subject to the provisions of section 207 of this Act relating to judicial review.

(e) The provisions of section 40 of this Act relating to the participation of children enrolled in private elementary and secondary schools shall apply to programs assisted under section 602 and this section.

(f) Each application by a local educational agency within a State for assistance under section 602 and this section shall be developed in conjunction with teachers and building administrators in such district and set forth a reading and mathematics program which provides for—

(1) diagnostic testing designed to identify pre-elementary, elementary, and secondary school children with reading and mathematics deficiencies, including the identification of conditions which, without appropriate other treatment, can be expected to impede or prevent, or to continue to impede or prevent, children from learning to read or to do mathematics;

(2) planning for and establishing comprehensive reading and mathematics programs which address the needs of all students and which utilize, in a coordinated fashion at the local educational agency and school building level, resources from all Federal, State, and local sources and which involve teachers, administrators, and parents in the development of the comprehensive programs;

(3) reading instruction for elementary and secondary school pupils whose reading and mathematics achievement is less than that which would normally be expected for pupils of comparable ages and in comparable grades of school;

(4) to the extent practicable, preservice training programs for teaching personnel including teacher-aides and other ancillary educational personnel, and in-service training and development programs, where feasible, designed to enable such personnel to improve their ability to teach students to read or to do mathematics;

(5) participation of the school faculty, and students in reading and mathematics related activities which stimulate an interest in reading and mathematics and are conducive to the improvement of reading and mathematics skills, and parent participation in the development and implementation of such activities;

(6) local educational agency school board participation in the development of programs;

(7) periodic testing in programs for elementary and secondary school children on a sufficiently frequent basis to measure accurately reading and mathematics achievement, and for programs for preelementary school children a test of reading and mathematics proficiency at the conclusion, minimally, of the first-grade program into which the nursery and kindergarten programs are integrated;

(8) publication of test results on reading and mathematics performance by grade level, and where appropriate, by school, without identification of performance of individual children;

(9) availability of test results on reading and mathematics performance on an individual basis to parents or guardians of any child being so tested;

(10) participation on an equitable basis by children enrolled in nonprofit private elementary and secondary schools in the area to be served (after consultation with the appropriate private school officials) to an extent consistent with the number of such children whose educational needs are of the kind the program is intended to meet;

(11) the use of bilingual education methods and techniques to the extent consistent with the number of elementary and secondary school-age children in the area served by a reading and mathematics program with limited English language skills;

(12) to the extent practicable, appropriate involvement of leaders of the cultural and educational resoruces of the area to be served, including institutions of higher education, nonprofit private schools, public and private nonprofit agencies such as libraries, museums, educational radio and television, and other cultural and education resources of the community; and

(13) assessment, evaluation, and collection of information on individual children by teachers during each year of a pre-elementary program, to be made available for teachers in the subsequent year, in order that continuity for the individual child not be lost.

(g) In addition to the grants authorized in subsection (f), the State educational agency may also make grants to support activities designed to enlist the assistance of parents working with schools to improve the skills of their children in reading, mathematics, and oral and written communication. Activities that may be supported under this section include—

(1) the development and dissemination of materials that parents may use in the home to improve their children's performance in those skills;

(2) the encouragement of closer contacts between parents and teachers to improve the coordination between learning experiences in the home and those in school;

(3) planning for, developing, and improving centers accessible to parents to provide materials and professional guidance, including volunteers, for parents who desire to assist in the instruction of their children; and

(4) the demonstration of training programs for parents who desire to develop new skills to complement the instruction their children receive in school.

READING ACADEMIES

Sec. 604. (a) The Commissioner is authorized to make grants to and to enter into contracts with State and local educational agencies, institutions of higher education, community organizations and other nonprofit organizations, having the capacity to furnish reading assistance and instruction to in-school as well as out-of-school youths and adults who do not otherwise receive such assistance and instruction.

(b) Grants made and contracts entered into under this section shall contain provisions to assure that such reading assistance and instruction will be provided in appropriate facilities to be known as "reading academies". Grants and contracts under this section shall not be made or entered into with respect to any application of a local educational agency unless the State educational agency of the State in which that local educational agency is located has received notice of that application and has had a reasonable opportunity for comment thereupon.

STATE LEADERSHIP AND TRAINING PROJECTS

Sec. 605. The Commissioner is authorized to enter into agreements pursuant to this section with State educational agencies for the carrying out by such agencies of leadership and training activities designed to prepare personnel throughout the State to conduct projects which have been demonstrated in that State or other States to be effective in overcoming reading and mathematics deficiencies. The activities authorized by this section shall be limited to—

(1) assessments of need, including personnel needs, relating to reading and mathematics problems in the State,

(2) inservice training for local reading and mathematics program administrators and instructional personnel, and

(3) provision of technical assistance and dissemination of information to local educational agencies and other appropriate nonprofit agencies.

NATIONAL IMPACT READING AND MATHEMATICS PROGRAM

Sec. 606. The Commissioner is authorized to carry out, either directly or through grants or contracts, activities (1) to develop, demonstrate, or evaluate improved means of providing instruction to children, youths, and adults in reading and mathematics, (2) to disseminate information relating to activities carried out under this part, and (3) to establish programs for lending or selling books to children, youth, and adults.

INEXPENSIVE BOOK DISTRIBUTION PROGRAM FOR READING MOTIVATION

Sec. 607. (a) The Commissioner is authorized (1) to enter into a contract with a private nonprofit group or public agency (hereinafter in this section referred to as the "contractor"), which has as its primary purpose the motivation of children to learn to read and to support and promote the establishment of reading motivational programs which include the distribution of inexpensive books to students, and (2) to pay the Federal share of the cost of such programs.

(b) This contract shall provide that—

(1) the contractor will enter into subcontracts with local private nonprofit groups or organizations or with public agencies (hereinafter referred to as "subcontractors") under which the subcontractors will agree to establish, operate, and provide the non-Federal share of the cost of reading motivational programs which include the distribution of books by gift or loan, to preelementary, elementary, or secondary school children;

(2) funds made available by the Commissioner to a contractor pursuant to any contract entered into under this section will be used to pay the Federal share of the cost of establishing and operating reading motivational programs as provided in paragraph (1);

(3) the contractor will meet such other conditions and standards as the Commissioner determines to be necessary to assure the effectiveness of the programs authorized by this section and will provide technical assistance in furtherance of the purposes of this section.

(c) The Commissioner shall make no payment of the Federal share of the cost of acquiring and distributing books pursuant to a contract authorized by this section unless he determines that the contractor or the subcontractor, as the case may be, has made arrangements with book publishers or distributors to obtain books at discounts at least as favorable as discounts that are customarily given by such publisher or distributor for book purchases made under similar circumstances in the absence of Federal assistance.

(d) For purposes of this section—

(1) the term "nonprofit", when used in connection with any organization, means an organization no part of the net earnings of which inures, or may lawfully inure, to the benefit of any private shareholder or individual;

(2) the term "Federal share" means, with respect to the cost of books purchased by a local private nonprofit group, organization, or public agency for a program in a locality for distributing such books to school children in that locality, 50 per centum of the cost to such agency or group or organization for such books for such program; except when such nonprofit group, organization or public agency has within the two years preceding its application for assistance, received Federal funds under a program to benefit migrant and seasonal farmworkers in which the Federal share was 100 per centum. In that case, the term "Federal share," under this section, shall mean 100 per centum of the cost to such agency or group or organization for such books that are distributed to the children of migrant and seasonal farmworkers;

(3) the term "preelementary school" means a day or residential school which provides preelementary education, as determined under State law, except that such term does not include education for children who have not attained three years of age;

(4) the term "elementary school" has the same meaning as provided in section 801(c) of the Elementary and Secondary Education Act of 1965; and

(5) the term "secondary school" has the same meaning as provided in section 801(h) of the Elementary and Secondary Education Act of 1965.

EVALUATION

SEC. 608. (a) The Commissioner shall submit an evaluation report to the Committee on Human Resources of the Senate and the Committee on Education and Labor of the House of Representatives not later than February 1 of 1980, 1982, and 1984. Each such report shall—

(1) contain a statement of specific and detailed objectives for the programs assisted under the provisions of this part;

(2) include a statement of the effectiveness of the programs in meeting the stated objectives, measured through the end of the preceding fiscal year;

(3) make recommendations with respect to any changes or additional legislation deemed necessary or desirable in carrying out the programs;

(4) contain a list identifying the principal analyses and studies supporting the major conclusions and recommendations contained in the report; and

(5) contain an annual evaluation plan for the programs through the ensuing two succeeding fiscal years for which the budget was transmitted to Congress by the President, in accordance with section 201(a) of the Budget and Accounting Act, 1921.

(b) From the sums appropriated pursuant to section 609 for any fiscal year, the Commissioner may reserve such amount, not in excess of 1 per centum of such sums, as he deems necessary for evaluation, by the Commissioner or by public or private nonprofit agencies, of programs assisted under this part.

AUTHORIZATION OF APPROPRIATIONS

SEC. 609. (a) There are authorized to be appropriated to carry out the provisions of sections 602 and 603 of this part $93,000,000 for the fiscal year ending September 30, 1979, and for each of the four succeeding fiscal years.

(b) There are authorized to be appropriated to carry out the provisions of section 604, relating to reading academies, $10,000,000 for the fiscal year ending September 30, 1979, and for each of the succeeding fiscal years ending before October 1, 1983.

(c) There are authorized to be appropriated to carry out the provisions of section 605, relating to State leadership and training projects, $15,000,000 for the fiscal year ending September 30, 1979, $20,000,000 for the fiscal year ending September 30, 1980, $25,000,000 for the fiscal year ending September 30, 1981, and $30,000,000 for each of the fiscal years ending September 30 of 1982 and 1983.

(d) There are authorized to be appropriated to carry out the provisions of section 606, relating to national impact reading and mathematics programs, $20,000,000 for the fiscal year ending September 30, 1979, and for each of the four succeeding fiscal years.

(e) There are authorized to be appropriated to carry out the provisions of section 607, relating to inexpensive book distribution programs for reading motivation, $9,000,000 for the fiscal year ending September 30, 1979, and for each of the following four fiscal years. Under such conditions as the Commissioner determines to be appropriate, not to exceed 10 per centum of the amounts appropriated for each fiscal year shall be available for a contract from the Commissioner to the con-

tractor designated under section 607 for technical assistance under subsection (b)(3) of section 607 to carry out the provisions of such section.

ACCEPTANCE OF GIFTS

Sec. 610. Notwithstanding the provisions of section 408(a)(3) of the General Education Provisions Act, the Commissioner may accept on behalf of the United States, gifts or donations made with or without conditions of services, money or property (real, personal, or mixed; tangible or intangible) made for any activities authorized to be carried out by such agency under the authority of this part.

Part B—Special Projects

PURPOSE

Sec. 621. It is the purpose of this part to authorize special projects—

(1) to experiment with new educational and administrative methods, techniques, and practices;

(2) to meet special or unique educational needs or problems;

(3) to place special emphasis on national education priorities; and

(4) to disseminate information to State and local educational agencies.

GRANTS AND CONTRACTS

Sec. 622. (a) The Secretary and the Commissioner are authorized, during the period from October 1, 1979, through September 30, 1983, to make grants to, and enter into contracts with, State and local educational agencies, other public and private agencies, organizations, and institutions, and individuals to carry out the purposes of this part, except that no grant may be made under this part to other than a public or nonprofit private agency, organization, or institution, or to an individual under section 629.

(b) No grant or contract shall be awarded under this part to a State or local educational agency unless the Secretary determines that in designing the proposal for which application is made, the needs of children in nonprofit private elementary and secondary schools have been taken into account through consultation with private school officials; and, to the maximum extent feasible, and consistent with the number of such children in the area to be served who have the educational needs the proposal is intended to address, those children will be provided an opportunity to participate in the proposed activity on a basis comparable to that provided for public school children.

AUTHORIZED ACTIVITIES

Sec. 623. In carrying out the purposes of this part the Secretary and the Commissioner shall award grants or contracts to eligible entities for each of the activities set forth in sections 624 through 631. Funds available to the Secretary and the Commissioner under this part which are not used for those activities may be used for grants or contracts that the Secretary of the Commissioner determines will ac-

complish one or more of the purposes of this part as set forth in section 621. The Commissioner shall, in addition to the sums reserved pursuant to sections 628(c), 630(c), and 631, reserve for purposes of section 626, not less than $5,000,000 from the amount appropriated for purposes of this part for each fiscal year.

ARTS IN EDUCATION

SEC. 624. The Secretary shall carry out a program to encourage and assist State and local educational agencies and other public and private agencies, organizations, and institutions to establish and conduct programs in which the arts are an integral part of elementary and secondary school curricula. In addition, activities carried out under this section may include arrangements with the John F. Kennedy Center for the Performing Arts and other public and private cultural organizations, agencies, and institutions, including museums, libraries, and theaters, to achieve the purpose of this section. In addition the Secretary shall carry out a program for the purpose of identifying, developing, and implementing model projects or programs in all the arts for handicapped persons through arrangements made with the National Committee of the Arts for the Handicapped.

METRIC EDUCATION

SEC. 625. The Secretary shall carry out a program to encourage educational agencies and institutions to prepare students, as part of the regular educational program, to use the metric system of measurement. Activities assisted under this section may include—

(1) the development, demonstration, improvement, or adaptation of programs of education in the use of the metric system;

(2) training educational personnel to carry out programs in the use of the metric system;

(3) the development and dissemination of instructional materials for use in metric education programs; and

(4) other activities that will encourage and assist students to learn the use of the metric system.

For the purposes of this section, the term "metric system of measurement" means the International System of Units as established by the General Conference of Weights and Measures in 1960 and interpreted or modified for the United States by the Secretary of Commerce.

CONSUMER EDUCATION

SEC. 626. (a)(1) There shall be within the Office of Education an Office of Consumers' Education (hereafter in this section referred to as the "Office") which shall be headed by a Director of Consumers' Education (hereafter in this section referred to as the "Director") who, subject to the management of the Commissioner, shall have responsibility for carrying out the provisions of this section.

(2) The Director shall be appointed by the Commissioner in accordance with the provisions of title 5 of the United States Code relating to appointments to the competitive service.

(b)(1)(A) The Commissioner shall carry out a program of making grants to, and contracts with, institutions of higher education, State and local educational agencies, and other public and private agencies, organizations, and institutions (including libraries) to support research, demonstration, and pilot projects designed to provide consumer education to the public, except that no grant may be made other than to a nonprofit agency, organization, or institution.

(B) Funds appropriated for grants and contracts under this section shall be available for such activities as—

(i) the development of curricula (including interdisciplinary curricula) in consumer education;

(ii) dissemination of information relating to such curricula;

(iii) in the case of grants to State and local educational agencies and institutions of higher education for the support of education programs at the elementary and secondary and higher education levels; and

(iv) preservice and inservice training, programs and projects (including fellowship programs, institutes, workshops, symposiums, and seminars) for educational personnel to prepare them to teach in subject matter areas associated with consumer education.

In addition to the activities specified in the first sentence of this paragraph, such funds may be used for projects designed to demonstrate, test, and evaluate the effectiveness of any such activities, whether or not assisted under this section. Activities pursuant to this section shall provide bilingual assistance when appropriate.

(C) Financial assistance under this subsection may be made available only upon application to the Commissioner. Applications under this subsection shall be submitted at such time, in such form, and containing such information as the Commissioner shall prescribe by regulation and shall be approved only if it—

(i) provides that the activities and service for which assistance is sought will be administered by, or under the supervision of, the applicant;

(ii) describes a program for carrying out one or more of the purposes set forth in the first sentence of subparagraph (B) which holds promise of making a substantial contribution toward attaining the purposes of this section;

(iii) sets forth such policies and procedures as will ensure adequate evaluation of the activities intended to be carried out under the application;

(iv) sets forth policies and procedures which assure that Federal funds made available under this section for any fiscal year will be so used as to supplement and, to the extent practical increase the level of funds that would, in the absence of such Federal funds, be made available by the applicant for the purposes described in this section, and in no case supplant such funds;

(v) provides for such fiscal control and fund accounting procedures as may be necessary to assure proper disbursement of and accounting for Federal funds paid to the applicant under this section; and

(vi) provides for making an annual report and such other reports, in such form and containing such information, as the Commissioner may reasonably require and for keeping such records, and for affording such access hereto as the Commissioner may find necessary to assure the correctness and verification of such reports.

Applications from local educational agencies for financial assistance under this section may be approved by the Commissioner only if the State educational agency has been notified of the application and been given the opportunity to offer recommendations.

(2) Federal assistance to any program or project under this subsection, other than those involving curriculum development, dissemination of curricular materials, and evaluation, shall support up to 100 per centum of the cost of such program including costs of administration; contributions in kind are acceptable as local contributions to program costs.

(c) Each recipient of Federal funds under this section shall make such reports and evaluations as the Commissioner shall prescribe by regulation.

CAREER EDUCATION AND YOUTH EMPLOYMENT

SEC. 627. In order to achieve the purposes of the Career Education Incentive Act, the Secretary may support activities—

(1) to study the relationship of work to academic and intellectual achievement;

(2) to develop ways to improve achievement in basic educational skills through work experience;

(3) to enhance job opportunities for youths by coordinating educational activities with youth employment activities, particularly those carried out by the Secretary of Labor under part C of title III and title VIII of the Comprehensive Employment and Training Act of 1973;

(4) to encourage educational agencies and institutions to develop means to award academic credit for competencies derived from work experience; and

(5) to provide technical assistance, information, training, and other assistance to eligible entities to develop programs to enable students more readily to make the transition from school to work.

PRESCHOOL PARTNERSHIP PROGRAMS

SEC. 628. (a) The Commissioner is directed to establish, in cooperation with the Assistant Secretary for Human Development of the Department of Health, Education, and Welfare, a program of cooperative pilot projects between local educational agencies and Project Head Start, as authorized by the Headstart-Follow-Through Act, which will provide a smoother and more successful transition to formal schooling for certain preschool-aged children, and thereby improve their long-term achievement in elementary school.

(b) Projects established under this program will be designed to achieve the purposes of subsection (a) by—

(1) providing to a limited number of children aged three to four, inclusive, of low-income families and to their parents, families, or guardians a program of educational services including instruction, counseling, and testing, to be conducted primarily in the child's home:

(2) providing to children and adults who have participated in the services described above, during the following year appropriate educational services, testing, and counseling, to be primarily conducted on the premises of an elementary school; and

(3) providing a coordinated program of testing and assessment, along with such other evaluation procedures as the Commissioner and the Assistant Secretary shall deem appropriate, designed to assess the achievement of children during their participation in the program and subsequently at the end of each of the first two years of formal schooling.

(c) Not less than 10 per centum of the funds appropriated pursuant to section 632 shall be made available for purposes of this section.

SMALL GRANTS FOR LOCAL IMPROVEMENTS IN ELEMENTARY AND SECONDARY EDUCATION

SEC. 629. The Secretary is authorized to make grants not in excess of $25,000, to teachers, administrators, other educational personnel, and parent organizations to assist in the development or demonstration of innovative methods or techniques which would contribute to the solution of educational problems, and that otherwise would carry out one or more of the purposes of this part. Any grant to an individual who is employed by a local educational agency shall be made only if the Secretary determines that the agency has had an opportunity to comment on the proposal and will cooperate with the grantee in carrying out the proposed activity.

POPULATION EDUCATION

SEC. 630. (a) The Commissioner is authorized, from the sums appropriated for purposes of this part, to carry out a program of making grants to, and contracts with, institutions of higher education, State and local educational agencies, research organizations, and other public and private agencies, organizations, and institutions to implement a program of population education in elementary and secondary schools.

(b) Funds available for grants and contracts under subsection (a) shall be available for such activities as—

(1) preservice and inservice training programs and projects (including fellowship programs, institutes, workshops, symposiums, and seminars) for educational personnel to prepare them to incorporate population concepts into a broad array of subject fields such as geography, history, science, biology, social studies, and home economics;

(2) development and dissemination of teacher and student education, training, and instructional materials, including the identification, evaluation, improvement, and adaptation of existing curriculums and educational materials;

(3) research support to develop curriculum content and to evaluate programs and materials for the purpose of widespread dissemination;

(4) in the case of grants to State and local educational agencies, the support of population education programs at the elementary and secondary educational levels; and

(5) projects which demonstrate, test, and evaluate the effectiveness of the activities (delineated in paragraphs (1) through (4) of this subsection) whether or not assisted under this section.

Programs assisted pursuant to clauses (2) and (3) shall be carried out in cooperation with State and local educational agencies.

(c) Not less than 10 per centum of the sums appropriated for the purposes of this part shall be expended for the activities authorized under subsection (b) of this section. Applications for grants and contracts under this section shall be submitted at such time, in such form, and contain such information as the Commissioner shall prescribe.

(d) The National Institute of Education is directed to establish a clearinghouse on population education for the purpose of evaluating, cataloguing, and disseminating teacher and student materials on population. For the purposes of carrying out this subsection, the Commissioner is authorized to transfer to the National Institute of Education sums not to exceed $500,000.

DISSEMINATION OF INFORMATION

SEC. 631. The Commissioner shall use at least 5 per centum of the funds appropriated under this part to collect, analyze, and disseminate information carried out under part A of this title and under part C of title IV, including information as to which of those activities have been successful in improving the achievement of students in the basic skills. At least 70 per centum of the funds available under this section shall be used to disseminate that information to State and local educational agencies through the National Diffusion Network.

AUTHORIZATION OF APPROPRIATIONS

SEC. 632. There are authorized to be appropriated for the purposes of this part such sums as may be necessary for the fiscal year ending September 30, 1980, and for each of the three succeeding fiscal years.

PART C—GIFTED AND TALENTED CHILDREN

SHORT TITLE; PURPOSE

SEC. 641.(a) This part may be cited as the "Gifted and Talented Children's Education Act of 1978".

(b) The Congress hereby finds and declares that—

(1) the Nation's greatest resource for solving critical national problems in areas of national concern is its gifted and talented children,

(2) unless the special abilities of gifted and talented children are developed during their elementary and secondary school years, their special potentials for assisting the Nation may be lost, and

(3) gifted and talented children from economically disadvantaged families and areas often are not afforded the opportunity to fulfill their special and valuable potentials, due to inadequate or inappropriate educational services.

GRANTS TO LOCAL EDUCATIONAL AGENCIES

Sec. 642. (a) The Commissioner is authorized to make grants to local educational agencies for the planning, establishment, and improvement of special educational programs for gifted and talented children at the preschool, elementary, and secondary levels.

(b) Of the funds appropriated under this part, 55 per centum thereof shall be allocated to this section to be used in the following manner:

(1) One-half of such funds shall be used for projects which propose innovative and promising approaches to meeting the special educational needs of gifted and talented children.

(2) One-half of such funds shall be used for projects which are directed toward identifying and serving the special educational needs of gifted and talented children who are economically disadvantaged.

(c) No grant or contract awarded under this section shall have a duration in excess of five years.

GRANTS TO STATE EDUCATIONAL AGENCIES

Sec. 643. (a) The Commissioner is authorized to make grants to State educational agencies in order to assist them in the planning, development, operation, and improvement of programs, including the inservice training of personnel, designed to meet the special educational needs of gifted and talented children at the preschool, elementary, and secondary levels.

(b) Of the funds appropriated under this part, 30 per centum shall be used for activities authorized under this section.

(c) No grant or contract awarded under this section shall have a duration in excess of three years.

RESEARCH AND DEMONSTRATION

Sec. 644. (a) The Commissioner is authorized to make grants to State or local educational agencies, institutions of higher education, and other public or private agencies and organizations to conduct research and demonstrations relating to the education of gifted and talented children. To the maximum extent possible, the Commissioner and the Director of the National Institute of Education shall cooperate in the funding and operation of such research and demonstrations, using the funds made available for this section pursuant to subsection (c).

(b) The Commissioner is authorized to make grants or contracts to public or private agencies, organizations, or institutions which together or singly constitute a clearinghouse to disseminate information about programs, services, resources, research, methodology, and media materials for the special education of gifted and talented children.

(c) Of the funds appropriated under this part, 15 per centum shall be used for the purpose of this section.

ELIGIBILITY OF INDIAN TRIBES

SEC. 645. Notwithstanding any other provision of law, any Indian tribe which operates any school for its children shall be deemed to be a local educational agency for the purposes of section 642 of this part.

DEFINITION

SEC. 646. For the purposes of this part, "gifted and talented" means children and, where applicable, youth, who are identified at the preschool, elementary, or secondary level as possessing demonstrated or potential abilities that give evidence of high performance capability in areas such as intellectual, creative, specific academic, or leadership ability or in the performing and visual arts, who by reason thereof, require special educational services.

AUTHORIZATION OF APPROPRIATIONS

SEC. 647. For the purpose of carrying out this part, there are hereby authorized to be appropriated $10,000,000 for the fiscal year ending September 30, 1979, $15,000,000 for the fiscal year ending September 30, 1980, $20,000,000 for the fiscal year ending September 30, 1981, and $25,000,000 for each of the fiscal years ending September 30 of 1982 and 1983.

PART D—WOMEN'S EDUCATIONAL EQUITY

SHORT TITLE; PURPOSE

SEC. 651. (a) This part may be cited as the "Women's Educational Equity Act of 1978."

(b)(1) The Congress hereby finds and declares that educational programs in the United States, as presently conducted, are frequently inequitable as such programs relate to women and frequently limit the full participation of all individuals in American society.

(2) It is the purpose of this part to provide educational equity for women in the United States and to provide financial assistance to enable educational agencies and institutions to meet the requirements of title IX of the Educational Amendments of 1972.

(c) As used in this part, the term "Council" means the National Advisory Council on Women's Educational Programs.

GRANT AND CONTRACT AUTHORITY

SEC. 652. (a) The Commissioner is authorized to make grants to, and enter into contracts with public agencies, private nonprofit agencies, organizations, and institutions, and individuals, including student and community groups, for activities designed to achieve the purpose of this part at all levels of education, including preschool, elementary and secondary education, higher education, and adult education. These activities may include—

(1) demonstration, developmental, and dissemination activities of national, statewide, or general significance, including—

(A) the development and evaluation of curricula, textbooks, and other educational materials related to educational equity;

(B) model preservice and inservice training programs for educational personnel with special emphasis on programs and activities designed to provide educational equity;

(C) research and development activities designed to advance educational equity;

(D) guidance and counseling activities, including the development of nondiscriminatory tests, designed to ensure educational equity;

(E) educational activities to increase opportunities for adult women, including continuing educational activities and programs for underemployed and unemployed women; and

(F) the expansion and improvement of educational programs and activities for women in vocational education, career education, physical education, and educational administration; and

(2) assistance to eligible entities to pay a portion of the costs of the establishment and operation, for a period of not to exceed two years, of special programs and projects of local significance to provide equal opportunities for both sexes, including activities listed in paragraph (1), activities incident to achieving compliance with title IX of the Education Amendments of 1972, and other special activities designed to achieve the purposes of this part. Not less than 75 per centum of funds used to support activities covered by paragraph (2) shall be used for awards to local educational agencies.

(b) For each fiscal year, the Commissioner shall use $15,000,000 from the funds available under this part to support activities described in paragraph (1) of subsection (a). Any funds in excess of $15,000,000 available under this part shall be used to support activities described in paragraph (2) of subsection (a).

APPLICATION; PARTICIPATION

SEC. 653. (a) A grant may be made and a contract may be entered into under this part only upon application to the Commissioner, at such time, in such form, and containing or accompanied by such information as the Commissioner may prescribe. Each such application shall—

(1) provide that the program or activity for which assistance is sought will be administered by or under the supervision of the applicant;

(2) describe a program for carrying out one or more of the activities set forth in section 652 which holds promise of making a substantial contribution toward attaining the purposes of this part; and

(3) set forth policies and procedures which ensure adequate evaluation of the activities intended to be carried out under the application;

(b) Nothing in this part shall be construed as prohibiting men and boys from participating in any programs or activities assisted under this part.

SMALL GRANTS

Sec. 654. In addition to the authority of the Commissioner under section 652, the Commissioner shall carry out a program of small grants (as part of the grant program administered under section 652(a)(1)), not to exceed $25,000, each, in order to support innovative approaches to achieving the purposes of this part; and for that purpose the Commissioner is authorized to make grants to public and private nonprofit agencies and to individuals.

CRITERIA AND PRIORITIES

Sec. 655. The Commisioner shall establish criteria and priorities for awards under this part in ensure that available funds are used for those purposes that most effectively will achieve the purposes of this part. Those criteria and priorities shall be promulgated in accordance with section 431 of the General Education Provisions Act.

NATIONAL ADVISORY COUNCIL ON WOMEN'S EDUCATIONAL PROGRAMS

Sec. 656. (a) There is established in the Office of Education a National Advisory Council on Women's Educational Programs. The Council shall be composed of—

(1) seventeen individuals, some of whom shall be students, and who shall be appointed by the President, by and with the advice and consent of the Senate, from among individuals, broadly representative of the general public who, by virtue of their knowledge or experience, are versed in the role and status of women in American society;

(2) the staff Director of the Civil Rights Commission;

(3) the Director of the Women's Bureau of the Department of Labor; and

(4) the Director of the Women's Action Program of the Department of Health, Education, and Welfare.

The Council shall elect its own Chairperson from among the members indicated in paragraph (1).

(b) The term of office of each member of the Council appointed under paragraph (1) of subsection (a) shall be three years, except that—

(1) the members first appointed under such clause shall serve as designated by the President, six for a term of one year; five for a term of two years, and six for a term of three years; and

(2) any member appointed to fill a vacancy occurring prior to the expiration of the term for which his or her predecessor was appointed shall be appointed for the remainder of such term.

(c) The Council shall—

(1) advise the Secretary, Assistant Secretary, and the Commissioner on matters relating to equal educational opportunities for women and policy matters relating to the administration of this part;

(2) make recommendations to the Commissioner with respect to the allocation of any funds pursuant to this part, including criteria developed to ensure an appropriate geographical distribution of approved programs and projects throughout the Nation;

(3) recommend criteria for the establishment of program priorities;

(4) make such reports as the Council determines appropriate to the President and the Congress on the activities of the Council; and

(5) disseminate information concerning the activities of the Council under this part.

(d) The provisions of part D of the General Education Provisions Act shall apply with respect to the Council established under this subsection.

REPORT

SEC. 657. The Commissioner is directed, at the end of each fiscal year, to submit to the President and the Congress and to the Council a report setting forth the programs and activities assisted under this part, and to provide for the distribution of this report to all interested groups and individuals, including the Congress, from funds authorized under this part. After receiving the report from the Commissioner, the Council shall evaluate the program and projects assisted under this part and include such evaluation in its annual report.

AUTHORIZATION OF APPROPRIATIONS

SEC. 658. For the purposes of carrying out this part there are authorized to be appropriated $80,000,000 for the fiscal year ending September 30, 1980, and each of the three succeeding fiscal years.

PART E—COMMUNITY SCHOOLS

SHORT TITLE

SEC. 661. This part may be cited as the "Community Schools and Comprehensive Community Education Act of 1978".

STATEMENT OF FINDINGS AND POLICY

SEC. 662. (a) The Congress finds that—

(1) the school is a primary institution for the delivery of services and may be the best instrument for the coordination of frequently fragmented services including benefits obtained by energy savings and parental involvement in the delivery of such services;

(2) community education promotes a more efficient use of public education facilities through an extension of school buildings and equipment; and

(3) as the primary educational institution of the community, the school is most effective when it involves the people of that community in a program to fulfill the educational needs of individuals of the community.

(b) It is the purpose of this part—

(1) to provide educational, recreational, cultural, and other related community services, in accordance with the needs, interests, and concerns of the community through the expansion of community education programs;

(2) to coordinate the delivery of social services to meet the needs and preferences of the residents of the community served by the school; and

(3) to provide for a research and development emphasis in community education which can contribute to an improved formulation of Federal, State, and local policy.

DEFINITION OF COMMUNITY EDUCATION PROGRAM

SEC. 663. For the purpose of this part, a "community education program" means a program in which a public building, including but not limited to, a public elementary or secondary school, is used as a community center operated by a local educational agency in conjunction with other groups in the community, community organizations, and local governmental agencies, to provide educational, recreational, health care, cultural, and other related community services for the community that the center serves in accordance with the needs, interests, and concerns of that community.

STATE PROGRAMS FOR COMMUNITY EDUCATION

SEC. 664. (a) The Commissioner is authorized to make grants to State educational agencies in accordance with the provisions of this part, to pay the Federal share of the cost of planning, establishing, expanding, and operating community education programs.

(b) There are authorized to be appropriated to carry out the provisions of subsection (a) of this section $55,000,000 for the fiscal year ending September 30, 1979, $72,000,000 for the fiscal year ending September 30, 1980, $90,000,000 for the fiscal year ending September 30, 1981, $72,000,000 for the fiscal year ending September 30, 1982, and $55,000,000 for the fiscal year ending September 30, 1983.

ALLOTMENT

SEC. 655. (a) (1) From the funds appropriated pursuant to section 664, the Commissioner shall allot not more than 1 per centum among Guam, American Samoa, the Virgin Islands, the Northern Mariana Islands, and the Trust Territory of the Pacific Islands, and Bureau of Indian Affairs schools according to their respective needs.

(2) From the remainder of such sums the Commissioner shall allot to each State an amount which bears the same ratio to such remainder as the population of the State bears to the population of all States except that no State shall receive less than $50,000 in any fiscal year. For the purpose of this subsection, the term "State" does not include Guam, American Samoa, the Virgin Islands, the Northern Mariana Islands, and the Trust Territory of the Pacific Islands.

(b) The portion of any State's allotment under subsection (a) for a fiscal year which the Commissioner determines will not be required for

the period such allotment is available, for carrying out the purposes of this part, shall be available for reallotment from time to time no such date during such period as the Commissioner may fix, to other States in proportion to the original allotment to such States under subsection (a) for such year, but with such proportionate amount for any of each other States being reduced to the extent it exceeds the sum which the Commissioner estimates will be needed in such State and will be used for such period for carrying out applications approved under this part, and the total of such reduction shall be similarly reallotted among the States whose proportionate amounts are not so reduced, Any amount reallotted to a State under this subsection during a year shall be deemed part of its allotment under subsection (a) for such year.

USE OF COMMUNITY EDUCATION PROGRAMS FOR NON-FEDERAL CONTRIBUTION IN CERTAIN FEDERAL PROGRAMS

Sec. 666. (a) Notwithstanding any other provision of law any State or local public agency may use the fair value of any community service program assisted under this part as part or all of the non-Federal contribution required under any program set forth in subsection (b) of this section, if—

(1) a portion of any program set forth in subsection (b) is implemented in any building conducting a community education program assisted under this part; and

(2) there is a necessary relationship between such portion of the program set forth in subsection (b) and any element of the community education program assisted under this part.

(b) Programs to which subsection (a) applies are—

(1) the Public Health Service Act,

(2) the Head Start-Follow Through Act,

(3) title XX of the Social Security Act, relating to child care and day care services,

(4) the youth employment demonstration programs authorized under the Comprehensive Employment and Training Act of 1973,

(5) the Older Americans Act of 1965,

(6) the Vocational Education Act of 1963,

(7) the Adult Education Act,

(8) title I and title X of the Higher Education Act of 1965, relating to community services and continuing education programs and community college programs,

(9) titles I through IX of the Economic Opportunity Act of 1964,

(10) the Legal Services Corporation Act,

(11) Safe Streets and Omnibus Crime Control Act of 1968,

(12) science education programs assisted under the National Science Foundation Act of 1950, and

(13) such other community service programs as the Commissioner deems appropriate.

USE OF FUNDS

Sec. 667. Payments made under this part to any State educational agency and to any local educational agency, either directly by the Com-

missioner under section 669 or in accordance with a State plan approved under section 668, may be used by such State and local educational agencies for the Federal share of the cost of planning, establishing, expanding, and operating community education programs including—

(1) educational, cultural, recreational, health care, and other related community services whether or not in the form of formal courses;

(2) activities making the school or other public facility and equipment available for use by individuals and groups in the community;

(3) preventive health, dental care, and nutrition;

(4) special programs for particular target groups such as older persons;

(5) services designed to eliminate the high incidence of suspension, expulsion, and other disciplinary action involving chronically maladjusted students;

(6) services for students who withdraw from school before completing secondary school requirements regardless of age or time of withdrawal;

(7) services for mentally or physically handicapped individuals or other health impaired individuals;

(8) rehabilitation purposes of juvenile and adult offenders;

(9) training programs to institutions of higher education for the purpose of assisting full-time training for personnel who are engaged in or who intend to engage in community education programs;

(10) specialized high schools or schools within schools organized around particular interests such as the arts, or using flexible scheduling and summer learning programs to take into account special needs of students, or creating interrelationships between secondary schools and such community resources as museums, cultural centers, and institutions of higher education; and

(11) development of means to use technology to improve the relationship between the school, the home, and community resources such as libraries, museums, and cultural centers.

STATE PLAN

SEC. 668. (a) Any State desiring to participate in the program authorized by this part shall submit through its State educational agency to the Commissioner a plan, in such detail as the Commissioner deems necessary. Each such plan shall provide satisfactory assurance—

(1) that payments made under this part will be used for community education programs described in section 667, and, to the extent practicable, such payments will be used to expand community education programs of the schools of local educational agencies within the State;

(2) that there will be developed, after consultation with the appropriate State agencies, for a ten-year plan for the coordination of education programs with all revelant community services;

(3) that 80 per centum of the amounts received by the State from its allotment will be distributed among local educational

agencies within the State with due regard for such factors as the size of the population to be served by the community education program of the local educational agency;

(4) that community education programs assisted under this part will, to the extent feasible, serve all age groups within the community including preschool children, children and youth in school, out of school youths, adults, and senior citizens as well as groups in the community with special needs for community education program services such as individuals with limited speaking ability, mentally and physically handicapped individuals, and other health impaired individuals;

(5) that the community education program will include procedures for the systematic and effective identification and documentation of the needs and concerns of the community;

(6) that the community education program will provide for the identification and use, to the fullest extent possible, of educational, cultural, recreational, health care, and other resources outside the school and other public facilities (including the services of volunteers) and will contain provisions to encourage the use of cooperative arrangements with public and private agencies to make maximum use of existing resources within the community;

(7) the community education program will contain provisions to assure the active and continuous involvement on an advisory basis of institutions, groups, and individuals in the community to be served by the program and the active and continuous involment of parents of school children in the planning, development, and implementation of programs;

(8) that the State educational agency will provide procedures for submitting applications by local educational agencies within that State for payments under this part, for approval by the State educational agency, including appropriate procedures to assure that the State educational agency concerned will not disapprove an application of any local educational agency without notice and opportunity for a hearing;

(9) that the State will pay from non-Federal sources the remaining cost of carrying out the State plan;

(10) that the State educational agency from the funds received by it under section 664 for any fiscal year will reserve an amount not to exceed 5 per centum of such funds for the administration of the State plan and providing technical assistance to local educational agencies and 10 per centum for the conduct of conferences and dissemination activities among local educational agencies within the State and other community service agencies, the coordination between local educational agencies, community colleges, and other institutions of higher education in the State with respect to the coordination of the delivery of social services with particular emphasis on the application of section 666 and the training as described in section 667(9); and

(11) that effective procedures will be adopted to evaluate the effectiveness of the community education programs assisted under this part (including where possible payments made directly (under section 669).

(b) The Commissioner shall approve a State plan which meets the requirements of subsection (a), and he shall not finally disapprove a State plan except after reasonable notice and opportunity for a hearing to the State educational agency.

GRANTS TO LOCAL EDUCATIONAL AG[illegible]ES

SEC. 669. (a)(1) The Commissioner is autho[illegible] make grants to local educational agencies for the Federal share of the cost of planning, establishing, expanding, and operating community education programs including any use described in section 667, whenever the Commissioner determines that, pursuant to an application filed under subsection (b), that the community education program for which application is made under subsection (b) holds reasonable promise of success and is in substantial compliance with the requirements of section 668(a) (4), (5), (6), (7), and (9).

(2) No grant may be made under this subsection unless an application is made to the Commissioner at such time, in such manner, and containing or accompanied by such information, as the Commissioner may reasonably require.

(b)(1) The Commissioner is authorized to make grants to nonprofit private organizations to encourage the use of school facilities and other facilities eligible to receive assistance under this part for the efficient and coordinated delivery of community services set forth in section 666(b) through contractual arrangements with the local educational agency concerned.

(2) No grant may be made under the provisions of this subsection unless an application is made to the Commissioner at such time, in such manner and containing or accompanied by such information, as the Commissioner may reasonably require.

(c) There are authorized to be appropriated $10,000,000 for each of the fiscal years 1979, 1980, 1981, 1982, and 1983 to carry out the provisions of this section.

NATIONAL CONFERENCES

SEC. 670. (a) In order to implement more fully the coordinated delivery of social services set forth in section 666(b) in the community education program setting, the Assistant Secretary is authorized and directed to hold not less than two national conferences on community education in an urban, suburban, and rural setting and prepare and publish a publication of the proceedings of such conferences in consultation with the heads of other agencies concerned with the delivery of social services.

(b) There are authorized to be appropriated for the fiscal year 1979 and for each fiscal year ending prior to October 1, 1983, $1,000,000 to carry out the provisions of this section.

RESEARCH AND EVALUATION

SEC. 671. (a) Notwithstanding the second sentence of section 405(b)(1) of the General Education Provisions Act, the National

Institute of Education shall in accordance with the terms and conditions of section 405 of such Act, carry out a program of research to examine the impact of the community education program and to conduct an evaluation of such programs. The evaluation shall include the nature and quality of parental involvement, the quality of the delivery of services under the community education program, the incidence of vandalism and school violence, the effectiveness of the relationship between the schools and other community agencies in identifying and delivering community services to children in the schools, and in delivering community services set forth in section 666(b), and the effectiveness of the needs assessment set forth in section 666 in improving the community education program priorities.

(b) In carrying out the provisions of subsection (a) the National Institute of Education is authorized and directed to use comparison models involving different kinds of community education programs and to prepare and submit a final report of the research and evaluation activities under this section not later than January 1, 1982.

(c) There are authorized to be appropriated $1,000,000 for the fiscal year 1979 and for each succeeding fiscal year ending prior to October 1, 1983, to carry out the provisions of this section.

ADMINISTRATION

Sec. 672. (a) The Commissioner shall establish or designate a clearinghouse to gather and disseminate information received from community education programs, including but not limited to, information regarding new programs, methods to encourage community participation, methods of formulating and conducting needs assessment, and methods of coordinating community education programs with other community services, with particular emphasis upon the coordination of delivery of community services described in section 666(b). The Commissioner is authorized to contract with public and private agencies or organizations to establish and operate the clearinghouse.

(b)(1) There is established, subject to part D of the General Education Provisions Act, in the Office of the Commissioner, a Community Education Advisory Council (referred to in this section as the "Advisory Council") to be composed of eleven members. The members of the Advisory Council shall be appointed by the Secretary.

(2) A majority of the members of the Advisory Council shall be individuals experienced in the operation of community education programs and the training of such individuals. The Council shall include representatives from various disciplines involved in providing services in community school programs.

(3) Appointments to the Advisory Council shall be completed within three months after enactment of this part. Individuals serving in any predecessor community education advisory council may be appointed under this subsection.

(4) The Commissioner shall make available to the Advisory Council such staff, information, and other assistance as it may require to carry out its activities.

(5) The Advisory Council shall advise the Commissioner on policy matters relating to the interests of community schools and the community education program authorized by this part.

(6) The Advisory Council shall advise the National Institute of Education with respect to the evaluation of community education programs. The Council shall present to Congress a complete and thorough assessment of the programs and operation of this part for each fiscal year.

(c)(1) There are authorized to be appropriated for the fiscal year 1979 and for each fiscal year ending prior to October 1, 1983, $500,000 to carry out the provisions of subsection (a) of this section.

(2) There are authorized to be appropriated for the fiscal year 1979 and for each succeeding fiscal year ending prior to October 1, 1983, $500,000 to carry out the provisions of subsection (b) of this section.

(d) The program authorized by this part shall be under the authority of the Executive Deputy Commissioner for Educational Programs.

FEDERAL SHARE

SEC. 673. (a) The Federal share of the cost of the State plan approved under section 667 shall be 80 per centum for the fiscal year 1979, 70 per centum for the fiscal year 1980, 50 per centum for the fiscal year 1981, 30 per centum for the fiscal year 1982, and 20 per centum for the fiscal year 1983.

(b) The Federal share of the cost of applications of local educational agencies and nonprofit organizations approved under section 668 shall be 90 per centum for the fiscal year 1979, 90 per centum for the fiscal year 1980, 80 per centum for the fiscal year 1981 and each of the two succeeding fiscal years.

PART F—SPECIAL PROJECTS IN THE BIOMEDICAL SCIENCES FOR SECONDARY SCHOOL STUDENTS FROM AN ECONOMICALLY DISADVANTAGED BACKGROUND

FINDINGS AND PURPOSE

SEC. 681. It is the purpose of this part to—

(1) introduce secondary students from an economically disadvantaged background to the challenges, opportunities, and needs of serving in communities which have a need for professionals trained in the biomedical sciences and which have an underrepresentation of individuals from such a disadvantaged background serving as medical professionals;

(2) motivate and educate these students to successfully pursue careers in the biomedical sciences;

(3) develop academic, cognitive, and communicative skills in these students;

(4) rectify disadvantages resulting from foreign language barriers; and

(5) instill awareness and concern in these students for the health of their families and communities;

by offering such students an intensive academic program in mathematics, the sciences, English, and study skill development, with experiences in laboratory and health care delivery settings, and frequent exposure to individuals trained, or receiving training, in the biomedical sciences.

Sec. 682. For the purposes of this part:

(1) The term "applicant" means an institution which has made application under section 685 for assistance under this part.

(2) The term "biomedical science" means a field relevant to the study of human biology, and includes chemistry, biology, medicine, dentistry, osteopathy, optometry, podiatry, pharmacy, and public health.

(3) The term "full participant" means, with respect to a project conducted in an academic year, a student who has participated satisfactorily in the project for not less than one hundred hours in the academic year.

(4) The term "project" means a project funded under this part.

(5) The term "public secondary school system" means secondary schools operated by a local educational agency or a secondary school operated predominantly for Indian children and operated by, or receiving financial assistance from, the Department of the Interior.

(6) The term "school of biomedical science" means an institution of higher education which provides training leading to a doctorate or master's degree in a biomedical science.

(7) The term "student from an economically disadvantaged background" means an individual from a family which had, during the preceding year, an income equal to 50 per centum or less of the National median income for families of comparable size and (A) who is enrolled in good standing in the ninth, tenth, eleventh, or twelfth grade, and (B) whose access to higher educational opportunity in the biomedical sciences is significantly limited due to the income of the individual's family.

(8) The term "talented student from an economically disadvantaged background" means a student from an economically disadvantaged background who has demonstrated such proficiency or potential as will enable the student, after satisfactory participation in a project, to undertake successfully a course of study in a biomedical science at an institution of higher education. Such proficiency or potential shall be determined in such a manner that (A) a student from a non-English speaking background is not penalized for the student's lack of proficiency in English, and (B) due notice is taken of cultural and linguistic biases inherent in traditional testing methods.

(9) The term "target student" means, with respect to a project offered in an academic year in cooperation with a secondary school system or systems, a talented student from an economically disadvantaged background who is enrolled in the school system or systems in the academic year—

(A) in the ninth or tenth grade, or

(B) in the eleventh or twelfth grade and who has participated satisfactorily in a project (or in a program comparable to a project) for not less than one hundred hours during the student's enrollment in the ninth or tenth grade in a school system.

PROJECTS FOR ECONOMICALLY DISADVANTAGED STUDENTS

Sec. 683. (a) The Commissioner is authorized to make grants to and enter into contracts with institutions of higher education for the purpose of offering projects to educate, motivate, and encourage students from an economically disadvantaged background to pursue training at the undergraduate and graduate levels in the biomedical sciences.

(b) The Commissioner, in his selection among applications meeting the requirements for approval under section 685, shall (1) give priority to each such qualified application that proposes the offering of a program not previously offered, (2) give special consideration to each such qualified application that proposes the offering of a project to students enrolled in secondary schools located in a health manpower shortage area (designated under section 332 of the Public Health Service Act) or in a rural area, and (3) take into account the location where the project is proposed to be offered to assure that projects are offered in a diversity of geographic settings.

(c) The amount of money to be provided, under any grant or contract entered into for a project, for all its expenses (other than special expenses approved by the Commissioner for its summer program offered pursuant to section 684(a)(10)) for a single fiscal year may not exceed an amount equal to $2,400 for each talented student from an economically disadvantaged background who was a full participant in the project in the academic year ending in that fiscal year.

PROJECT ACTIVITIES

Sec. 684. (a) Each project funded under this part shall—

(1) except as provided in subsection (b), extend over a multiyear grant or contract period of at least five academic years;

(2)(A) be carried out in cooperation with a public or private nonprofit secondary school system, or with a combination of such systems, that is located in the area in which the applicant is located and that has a relatively high proportion, as determined by the Commissioner, of students from an economically disadvantaged background enrolled in the secondary schools in such system, and (B) involve in a formal role in policymaking decisions in the project an individual who is employed at an administrative level, no lower than principal or dean, in a secondary school with target students who are participating in the project;

(3) be conducted, to the extent feasible, in a manner which does not conflict with a student's participation in extracurricular activities of the school in which he is enrolled;

(4) provide that not less than one hundred talented students from an economically disadvantaged background, who are enrolled in the ninth grade in such public school system or systems in each academic year in which the project is offered, are full participants in the project in such academic year;

(5) provide for validation of the participation of a target student in such project by a science teacher or the parent or guardian of such student;

(6) make arrangements to use in such project—

(A) the research and other facilities and personnel of schools of biomedical science located in the area in which such project is offered;

(B) the special knowledge of individuals from economically disadvantaged backgrounds who live in the area in which such project is offered and who are employed in the biomedical sciences;

(C) the expertise of teachers in secondary schools and institutions of higher education located in the area in which such project is offered; and

(D) the talents and experience of other groups located in the area in which such project is offered, such as parent-teacher associations, foundations, civic groups, and professional organizations, which would further the goals of such project;

(7) expose target students to professionals trained in the biomedical sciences and to the resources of the biomedical sciences, including those described in paragraph (6), and such other academic and health-related experiences as are designed to—

(A) inform and educate such students to the challenges, opportunities, and needs of serving in the biomedical science professions;

(B) educate and motivate such students to pursue successfully careers in the biomedical sciences;

(C) cultivate the development of academic, cognitive, and communication skills in such students; and

(D) instill awareness, concern, and information in such students for the health of their families and communities;

(8)(A) provide counseling to target students who are participating in the project, and to individuals who were such students and who were full participants in an academic year, on the range of opportunities available in the biomedical sciences upon completion of high school, college, and professional training, and on the financial and other prerequisites to pursue such opportunities, and (B) inform parents of participating students of the goals and structure of the project and provide opportunities for the involvement of these parents in the project;

(9) provide for the offering for target students, by a school of biomedical science during each academic year of such project, of a course or courses which—

(A) are in one or more of the biomedical sciences,

(B) encompass at least one hundred hours of classroom, laboratory, and fieldwork experience, and

(C) use the facilities of such school, including laboratories, libraries, classrooms, audiovisual equipment, conference and meeting rooms, and other necessary facilities;

(10) provide for the offering—

(A) in the summer following each academic year of the project, and

(B) for each individual who was a target student and a full participant in the project in the previous academic year,

of a summer program of at least six weeks' duration and in-

volving such academic study and other activities as promote the purposes of this part; and

(11) provide for the following (through qualitative assessments by a student's teachers and professors and through documentation of a student's cumulative grade point average in high school, scholastic aptitude test scores, acceptances to colleges and universities, and grade point average and major pursued during attendance at a college or university) of each individual who was a target student and a full participant in the project in an academic year in which the project is offered, to evaluate the impact of the project on the careers pursued by former participants in the project.

(b) The Commissioner may not provide funds under this part to an institution for a project (other than for the part of the project described in subsection (a) (11)) during an academic year (hereinafter in this subsection referred to the "project year") occurring after the second academic year of the project unless—

(1) the number of target students who were enrolled in the tenth grade and were full participants in the project in the academic year preceding the project year is not less than 50 per centum of the number of target students who were enrolled in the ninth grade and were full participants in the project in the second academic year preceding the project year; and

(2) not less than 50 per centum of the particular target students who were enrolled in the tenth or eleventh grade and were full participants in the project in the second academic year preceding the project year also were full participants in the project during the academic year preceding the project year.

APPLICATIONS

Sec. 685. (a) Any institution desiring assistance under this part shall make application therefor in accordance with the provisions of this part and other applicable law and with regulations of the Commissioner promulgated for the purposes of this part. The Commissioner shall approve an application under this part only if he determines that the project for which the application seeks assistance—

(1) will be operated by the applicant and that the applicant will carry out such project in accordance with this part; and

(2) will provide for the activities described in section 684(a).

(b) In approving an application for assistance under this title, the Commissioner shall ensure that there is cooperation and coordination of efforts among the projects, including the exchange of materials and information among such projects.

USE OF FUNDS

Sec. 686. (a) Funds appropriated to carry out projects under this part may be used to cover all or part of the cost of establishing and carrying out projects, including the cost of stipends, allowances, travel, and subsistence expenses (in such amounts as may be determined in accordance with regulations of the Commissioner) to target *students during their participation in a summer program offered pursuant to section 684(a)(10).*

(b) Each target student who is participating on an essentially full-time basis in a project during the academic year may be paid a stipend in an amount not in excess of $30 per month, except in exceptional cases as determined by the Commissioner.

AUTHORIZATION APPROPRIATIONS

SEC. 687. (a) For the purpose of carrying out projects under this part, there are authorized to be appropriated $40,000,000 for the fiscal year ending September 30, 1979, and such sums as may be necessary for each of the four succeeding fiscal years.

(b) From the funds appropriated pursuant to subsection (a), an amount not to exceed 5 per centum thereof shall be used for the purpose of conducting evaluations of the projects authorized under this part.

(c) Sums appropriated pursuant to this section shall remain available for expenditure and obligation on or before September 30, 1983.

PART G—ETHNIC HERITAGE PROGRAM

STATEMENT OF POLICY

SEC. 691. In recognition of the heterogeneous composition of the Nation and of the fact that in a multiethnic society a greater understanding of the contributions of one's own heritage and those of one's fellow citizens can contribute to a more harmonious, patriotic, and committed populace, and in recognition of the principle that all persons in the educational institutions of the Nation should have an opportunity to learn about the differing and unique contributions to the national heritage made by each ethnic group, it is the purpose of this part to provide assistance designed to afford to students opportunities to learn about the nature of their own cultural heritage, and to study the contributions of the cultural heritages of the other ethnic groups of the Nation.

ETHNIC HERITAGE STUDIES PROGRAMS

SEC. 692. The Commissioner is authorized to make grants to, and contracts with, public and private nonprofit educational agencies, institutions, and organizations to assist them in planning, developing, establishing, and operating ethnic heritage studies programs, as provided in this part.

AUTHORIZED ACTIVITIES

SEC. 693. Each program assisted under this part shall—

(1)(A) develop curriculum materials for use in elementary or secondary schools or institutions of higher education relating to the history, geography, society, economy, literature, art, music, drama, language and general culture of the group or groups with which the program is concerned, and the contributions of that ethnic group or groups to the American heritage; or

(B) disseminate curriculum materials to permit their use in elementary or secondary schools or institutions of higher education throughout the Nation; or

(C) provide training for persons using, or preparing to use, curriculum materials developed under this title; and

(2) cooperate with persons and organizations with a special interest in the ethnic group or groups with which the program is concerned to assist them in promoting, encouraging, developing, or producing programs or other activities which relate to the history, culture, or traditions of that ethnic group or groups.

APPLICATIONS

SEC. 694. (a) Any public or private nonprofit agency, institution, or organization desiring assistance under this part shall make application therefor in accordance with the provisions of this part and other applicable law and with regulations of the Commissioner promulgated for the purposes of this part. The Commissioner shall approve an application under this part only if he determines that—

(1) the program for which the application seeks assistance will be operated by the applicant and that the applicant will carry out such program in accordance with this part;

(2) such program will involve the activities described in section 693; and

(3) such program has been planned, and will be carried out, in consultation with an advisory council which is representative of the ethnic group or groups with which the program is concerned and which is appointed in a manner prescribed by regulation.

(b) In approving applications under this part, the Commissioner shall ensure that there is cooperation and coordination of efforts among the programs assisted under this part, including the exchange of materials and information and joint programs where appropriate.

ADMINISTRATIVE PROVISIONS

SEC. 695. (a) In carrying out this part, the Commissioner shall make arrangements which will utilize (1) the research facilities and personnel of institutions of higher education, (2) the special knowledge of ethnic groups in local communities and of foreign students pursuing their education in this country, (3) the expertise of teachers in elementary and secondary schools and institutions of higher education, and (4) the talents and experience of any other groups such as foundations, civic groups, and fraternal organizations which would further the goals of the programs.

(b) Funds appropriated to carry out this part may be used to cover all or part of the cost of establishing and carrying out the programs, including the cost of research materials and resources, academic consultants, and the cost of training of staff for the purposes of carrying out the purposes of this part. Such funds may also be used to provide stipends (in such amounts as may be determined in accordance with regulations of the Commissioner) to individuals receiving training as part of such programs, including allowances for dependents.

NATIONAL ADVISORY COUNCIL

SEC. 696. (a) There is hereby established a National Advisory Council on Ethnic Heritage Studies consisting of fifteen members appoint-

ed by the Secretary who shall be appointed, serve, and be compensated as provided in part D of the General Educational Provisions Act.

(b) Such Council shall, with respect to the program authorized by this part, carry out the duties and functions specified in part D of the General Education Provisions Act.

AUTHORIZATION OF APPROPRIATIONS

SEC. 697. For the purpose of carrying out this part, there are authorized to be appropriated $15,000,000 for each of the fiscal years ending prior to October 1, 1983. Sums appropriated pursuant to this section shall, notwithstanding any other provision of law unless enacted in express limitation of this sentence, remain available for expenditure and obligation until the end of the fiscal year succeeding the fiscal year for which they were appropriated.

TITLE VII—BILINGUAL EDUCATION PROGRAMS

SHORT TITLE

SEC. 701. This title may be cited as the "Bilingual Education Act."

POLICY; APPROPRIATIONS

SEC. 702. (a) Recognizing—

(1) that there are large numbers of children [of limited English-speaking ability] *with limited English language skills;*

(2) that many of such children have a cultural heritage which differs from that of English-speaking persons;

(3) that a primary means by which a child learns is through the use of such child's language and cultural heritage;

(4) that, therefore, large numbers of children [of limited English-speaking ability] *with limited English language skills* have educational needs which can be met by the use of bilingual educational methods and techniques; [and]

(5) that, in addition, children [of limited English-speaking ability] *with limited English language skills and children whose primary language is English* benefit through the fullest utilization of multiple language and cultural resources[.]*;*

(6) children with limited English language skills have a high dropout rate and low median years of education; and

(7) research and evaluation capabilities in the field of bilingual education need to be strengthened,

the Congress declares it to be the policy of the United States, in order to establish equal educational opportunity for all children (A) to encourage the establishment and operation, where appropriate, of educational programs using bilingual educational practices, techniques, and methods, and (B) for that purpose, to provide financial assistance to local educational agencies, and to State educational agencies for certain purposes, in order to enable such local educational agencies to develop and carry out such programs in elementary and secondary schools, including activities at the preschool level, which are designed to meet the educational needs of such children; and to demonstrate effective ways of providing, for children [of limited English-speaking ability] *with limited English language skills*, instruction designed to enable them, while using their native language, to achieve competence in the English language.

[(b)(1) Except as is otherwise provided in this title, for the purpose of carrying out the provisions of this title, there are authorized to be appropriated $135,000,000 for the fiscal year ending June 30, 1974; $135,000,000 for the fiscal year ending June 30, 1975; $140,000,000 for the fiscal year ending June 30, 1976; $150,000,000 for the fiscal year ending June 30, 1977; and $160,000,000 for the fiscal year ending June 30, 1978.]

(b)(1) For the purpose of carrying out the provisions of this title, there are authorized to be appropriated $200,000,000 for the fiscal year ending September 30, 1979; $250,000,000 for the fiscal year ending September 30, 1980; $300,000,000 for the fiscal year ending September 30, 1981; $350,000,000 for the fiscal year ending September 30, 1982; and $400,000,000 for the fiscal year ending September 30, 1983.

(2) There are further authorized to be appropriated to carry out the provisions of section 721(b)(3) [$6,750,000 for the fiscal year ending June 30, 1974; $7,250,000 for the fiscal year ending June 30, 1975; $7,750,000 for the fiscal year ending June 30, 1976; $8,750,000 for the fiscal year ending June 30, 1977; and $9,750,000 for the fiscal year ending June 30, 1978]*; $12,000,000 for the fiscal year ending September 30, 1979; $14,000,000 for the fiscal year ending September 30, 1980; $16,000,000 for the fiscal year ending September 30, 1981; and such sums as may be necessary for each of the two succeeding fiscal years.*

[(3) From the sums appropriated under paragraph (1) for any fiscal year—

[(A) the Commissioner shall reserve $16,000,000 of that part thereof which does not exceed $70,000,000 for training activities carried out under clause (3) of subsection (a) of section 721, and shall reserve for such activities 33⅓ per centum of that part thereof which is in excess of $70,000,000; and

[(B) the Commissioner shall reserve from the amount not reserved pursuant to clause (A) of this paragraph such amounts as may be necessary, but not in excess of 1 per centum thereof, for the purposes of section 732.]

(3) From the sums appropriated under paragraph (1) for any fiscal year, the Commissioner shall reserve $16,000,000 of that part thereof that does not exceed $70,000,000 for training activities carried out under section 721(a)(3), and shall reserve for those activities not less than 20 per centum of that part thereof which is in excess of $70,000,000.

DEFINITIONS; REGULATIONS

SEC. 703. (a) The following definitions shall apply to the terms used in this title:

(1) The term "limited [English-speaking ability] *English language skills*," when used with reference to an individual, means—

(A) individuals who were not born in the United States or whose native language is a language other than English [, and]*;*

(B) individuals who come from environments where a language other than English is dominant, as further defined by the Commissioner by regulations; *and*

(*C*) *and in the case of American Indian students, individuals who come from environments where a language other than English has had a significant impact on their level of English language skills, as further defined by the Commissioner by regulations,*

and, by reasons thereof, [have difficulty speaking and understanding instruction in the English language.] *have difficulty speaking, reading, writing, or understanding the English language at their appropriate age and grade levels. Children shall be considered to be proficient in English when they can speak, read, write, and understand English at a level comparable to other children at their appropriate age and grade levels.*

(2) The term "native language," when used with reference to an individual [of limited English-speaking ability] *with limited English language skills*, means the language normally used by such individuals, or in the case of a child, the language normally used by the parents of the child.

(3) The term "low-income" when used with respect to a family means an annual income for such a family which does not exceed the low annual income determined pursuant to section 103 of title I of the Elementary and Secondary Education Act of 1965.

(4) (A) The term "program of bilingual education" means a program of instruction, designed for children [of limited English-speaking ability] *with limited English language skills* in elementary or secondary schools, in which, with respect to the years of study to which such program is applicable—

(i) there is instruction given in, and study of, English and, to the extent necessary to allow a child to [progress effectively through the educational system] *achieve competence in the English language*, the native language of the children [of limited English-speaking ability] *with limited English language skills*, and such instruction is given with appreciation for the cultural heritage of such children *and of other children in American society*, and, with respect to elementary *and secondary* school instruction, such instruction shall, to the extent necessary, be in all courses or subjects of study which will allow a child to progress effectively through the educational system; and

(ii) the requirements in subparagraphs (B) through (E) of this paragraph and established pursuant to subsection (b) of this section are met.

[(B) A program of bilingual education may make provision for the voluntary enrollment to a limited degree therein, on a regular basis, of children whose language is English, in order that they may acquire an understanding of the cultural heritage of the children of limited English-speaking ability for whom the particular program of bilingual education is designed. In determining eligibility to participate in such programs, priority shall be given to the children whose language is other than English. In no event shall the program be designed for the purpose of teaching a foreign language to English-speaking children.]

(B) Participation in programs funded under this title designed expressly for the purpose of promoting English language skills in children with limited English language skills shall be limited to such children. In programs funded under this title which are not expressly designed to promote proficiency in English the enrollment of children shall, to the extent possible, reflect the enrollment in that school of children both with and without and limited English language skills.

(C) In such courses or subjects of study as art, music, and physical education, a program of bilingual education shall make provision for the participation of children [of limited English-speaking ability] *with limited English language skills* in regular classes.

(D) Children enrolled in a program of bilingual education shall, if graded classes are used, be placed, to the extent practicable, in classes with children of approximately the same age and level of educational attainment. If children of significantly varying ages or levels of educational attainment are placed in the same class, the program of bilingual education shall seek to insure that each child is provided with instruction which is appropriate for his or her level of educational attainment.

[(E) An application for a program of bilingual education shall be developed in consultation with parents of children of limited English-speaking ability, teachers, and, where applicable, secondary school students, in the areas to be served, and assurances shall be given in the application that, after the application has been approved under this title, the applicant will provide for participation by a committee composed of, and selected by, such parents, and, in the case of secondary schools, representatives of secondary school student to be served.]

(E) An application for a program of bilingual education shall—

(i) be developed in consultation with an advisory council, of which a majority shall be parents and other representatives of children with limited English language skills, in accordance with criteria prescribed by the Commissioner,

(ii) be accompanied by any comments such council may have on the application, and

(iii) contain assurances that after the application has been approved, the applicant will provide for the continuing consultation with and participation by a committee of parents, teachers, and other interested individuals (of which a majority shall be parents of children with limited English language skills) which shall be selected by and predominantly composed of parents of children participating in the program, and in the case of programs carried out in secondary schools, representatives of the secondary students to be served.

(F) Parents of children participating in a program of bilingual education shall be informed of the instructional goals of the program and the progress of their children in such program.

(5) The term "Office" means the Office of Bilingual Education.

(6) The term "Director" means the Director of the Office of Bilingual Education.

(7) The term "Council" means the National Advisory Council on Bilingual Education.

(8) The term "other programs for persons [of limited English-speaking ability] *with limited English language skills*" when used in sections 731 and 732 means [the program] *any programs within the Office of Education directly involving bilingual education activities serving persons with limited English language skills, such as the program* authorized by section 708(c) of the Emergency School Aid Act and the programs carried out in coordination with the provisions of this title pursuant to section 122(a)(4)(C) and part J of the Vocational Act of 1963, and section 306(a)(11) of the Adult Education Act, and programs and projects serving areas with high concentrations of persons [of limited English-speaking ability] *with limited English language skills* pursuant to section 6(b)(4) of the Library Services and Construction Act.

(b) The Commissioner, after receiving recommendations from State and local educational agencies and groups and organizations involved in bilingual education, shall establish, publish, and distribute, with respect to programs of bilingual education, suggested models with respect to pupil-teacher ratios, teacher qualifications, and other factors affecting the quality of instruction offered in such programs.

(c) In prescribing regulations under this section, the Commissioner shall consult with State and local educational agencies, appropriate organizations representing parents and children [of limited English-speaking ability] *with limited English language skills*, and appropriate groups and organizations representing teachers and educators involved in bilingual education.

PART A—FINANCIAL ASSISTANCE FOR BILINGUAL EDUCATION PROGRAMS

BILINGUAL EDUCATION PROGRAMS

SEC. 721. (a) Funds available for grants under this part shall be used for—

(1) the establishment, operation, and improvement of programs of bilingual education;

(2) auxiliary and supplementary community and educational activities designed to facilitate and expand the implementation of programs described in clause (1), including such activities as (A) adult education programs related to the purposes of this title, particularly for parents of children participating in programs of bilingual education, and carried out, where appropriate, in coordination with programs assisted under the Adult Education Act, and (B) preschool programs preparatory and supplementary to bilingual education programs;

(3)(A) the establishment, operation, and improvement of training programs for personnel preparing to participate in, or personnel participating in, the conduct of programs of bilingual education and (B) auxiliary and supplementary training programs, which shall be included in each program of bilingual education, for personnel preparing to participate in, or personnel participating in, the conduct of such programs; and

(4) planning, and providing technical assistance for, and taking other steps leading to the development of, such programs.

(b)(1) A grant may be made under this section only upon application therefor by one or more local educational agencies or by an institution of higher education, including a junior or community college, applying jointly with one or more local educational agencies (or, in the case of a training activity described in clause (3)(A) of subsection (a) of this section, by eligible applicants as defined in section 723). Each such application shall be made to the Commissioner at such time, in such manner, and containing such information as the Commissioner deems necessary, and

(A) include a description of the activities set forth in one or more of the clauses of subsection (a) which the applicant desires to carry out; and

(B) provide evidence that the activities so described will make substantial progress toward making programs of bilingual education available to the children having need thereof in the area served by the applicant.

(2)(A) Except as provided in subparagraph (B), funds shall be available under this part for a program of bilingual education at a school or group of schools for no more than five fiscal years, except that projects and activities for which funds were available prior to October 1, 1978, may continue to receive assistance under this part through September 30, 1983. The amount made available for the third, fourth, or fifth year of any such project or activity funded under this part for any fiscal year beginning after September 30, 1978, shall be reduced in accordance with criteria established by the Commissioner designed to ensure the gradual assumption by the applicant of the costs or projects and activities assisted under this title.

(B) In the case of a local educational agency which shows adequate progress in meeting the goals of this title and which demonstrates a clear fiscal inability to carry on a program in such a school or group of schools, the Commissioner shall waive the requirements of subparagraph (A) if—

(i) there is a continuing presence of a substantial number of students with limited English language skills in a program under this title in such school or group of schools;

(ii) there has been a recent, substantial increase in the number of students with limited English language skills who have enrolled in such program; or

(iii) there is an obligation of the local educational agency in which such school or group of schools is located to initiate compliance with an order of a court of the United States or of any State respecting services to be provided for those children, or a plan approved by the Secretary as adequate under title VI of the Civil Rights Act of 1964 with respect to services to be provided for those children.

[(2)**]** *(3)* An application for a grant under this part may be approved only if—

(A) the provision of assistance proposed in the application is consistent with criteria established by the Commissioner, after consultation with the State educational agency, for the purpose of achieving an equitable distribution of assistance under this part within the State in which the applicant is located, which criteria shall be developed by his taking into consideration (i) the geographic distribution of children [of limited English-speaking ability] *with limited English language skills*, (ii) the relative need of persons in different geographic areas within the State for the kinds of services and activities described in subsection (a), (iii) with respect to grants to carry out programs described in clauses (1) and (2) of subsection (a) of section 721, the relative ability of particular local educational agencies within the State to provide such services and activities, and (iv) with respect to such grants, the relative numbers of persons from low-income families sought to be benefitted by such programs.

(B) in the case of applications from local educational agencies to carry out programs of bilingual education under clause (1) of subsection (a) of section 721, [the Commissioner determines that not less than 15 percentum of the amounts paid to the applicant for the purposes of such programs shall be expended] *the applicant shall expend adequate funds for purposes of such programs* for auxiliary and supplementary training programs in accordance with the provisions of clause (3)(B) of such subsection and section 723;

(C) the Commissioner determines (i) that the program will use the most qualified available personnel and the best resources and will substantially increase the educational opportunities for children [of limited English-speaking ability] *with limited English language skills* in the area to be served by the applicant [, and] (ii) that, to the extent consistent with the number of children enrolled in nonprofit, nonpublic schools in the area to be served whose educational needs are of the type which the program is intended to meet, provision has been made for participation of such children*; and (iii) that the program includes a plan for evaluation consistent with guidelines developed by the Commissioner;* [and]

(D) the State educational agency has been notified of the application and has been given the opportunity to offer recommendations thereon to the applicant and to the Commissioner[.]*;*

(E) the Commissioner determines that the assistance provided under the application will contribute toward building the capacity of the applicant to provide a program of bilingual education on a regular basis that will be of sufficient size, scope, and quality to promise significant improvement in the education of children with limited English language skills, and that the applicant will have the resources and commitment to continue the program when assistance under this title is reduced or no longer available;

(F) the program of bilingual education for which assistance is sought will (i) serve those children most in need of assistance under this title, (ii) provide measurable goals for determining when those children no longer need such assistance, and (iii) provide, from State and local sources, for necessary followup services to sustain the achievement of those children after they have left the program;

(G) Federal funds made available for the project or activity will be so used as to supplement the level of State and local funds

that, in the absence of those Federal funds, would have been expended for special programs for children with limited English language skills and in no case to supplant such State and local funds, except that nothing in this subparagraph shall (i) prohibit the use of funds made available under this title to enable the applicant to carry out activities not previously paid for out of non-Federal funds, to comply with an order of a court of the United States or of any State respecting services to be provided for those children, or to carry out a plan approved by the Secretary as adequate under title VI of the Civil Rights Act of 1964 with respect to services to be provided for those children, or (ii) authorize any priority or preference to be assigned by the Commissioner to the funding of such activities under this title; and

(H) the applicant demonstrates that, to the extent possible, personnel recruited and employed to carry out projects and activities under this title are bilingual, but nothing in this title shall be interpreted as encouraging or requiring the hiring or retention of personnel who are not as proficient in English as personnel employed to carry out the regular program of such applicant.

[(3)] *(4)* (A) Upon an application from a State educational agency, the Commissioner shall make provision for the submission and approval of a State program for the coordination by such State agency of technical assistance to programs of bilingual education in such State assisted under this title. Such State program shall contain such provisions, agreements, and assurances as the Commissioner shall, by regulation, determine necessary and proper to achieve the purposes of this title, including assurances that funds made available under this section for any fiscal year will be so used as to supplement, and to the extent practical, increase the level of funds that would, in the absence of such funds be made available by the State for the purposes described in this section, and in no case to supplant such funds.

(B) Except as is provided in the second sentence of this subparagraph, the Commissioner shall pay from the amounts authorized for these purposes pursuant to section 702 for each fiscal year to each State educational agency which has a State program submitted and approved under subparagraph (A) such sums as may be necessary for the proper and efficient conduct of such State program. The amount paid by the Commissioner to any State educational agency under the preceding sentence for any fiscal year shall not exceed 5 per centum of the aggregate of the amounts paid under this part to local educational agencies in the State of such State educational agency in the fiscal year preceding the fiscal year in which this limitation applies.

(c) In determining the distribution of funds under this title, the Commissioner shall give priority to areas having the greatest neeed for programs assisted under this title.

(d) Programs of bilingual education under this title in the Commonwealth of Puerto Rico may also make provision for serving the needs of students of limited proficiency in Spanish.

(e)(1) An application of a local educational agency for assistance under this title may cover a period of from one to three years. A new application shall be required for any assistance under this title for years subsequent to such period. The Commissioner shall base the de-

cision as to the length of time for which an application will be approved on—

(A) the severity of the problems addressed by the program for which assistance is being sought;

(B) the nature of the activities proposed in the application;

(C) the likely duration of the problems addressed by the application; and

(D) such other criteria, established by the Commissioner, as will assure the most effective use of the available funds in achieving the purposes of this title.

(2) If the Commissioner approves an application of a local educational agency under the title for a period covering more than one fiscal year, no subsequent application shall be required from such agency in any fiscal year during such period unless the agency proposes to carry out, in any such fiscal year, activities not included in the approved application. However, payments to any such agency for any fiscal year subsequent to the first fiscal year for which the application has been approved shall be made only if—

(A) sufficient appropriations are available for making payments in each such subsequent fiscal year;

(B) the Commissioner determines that the agency is not ineligible for assistance under this title in each subsequent fiscal year; and

(C) the agency demonstrates, by such means as the Commissioner may prescribe, that satisfactory progress is being made toward achieving the objectives of the program for which assistance has been made available under this title.

(f) If the Commissioner determines that an applicant for assistance under this title is unable or unwilling to provide for the participation in the program for which assistance is sought of children with limited English language skills enrolled in nonprofit, nonpublic schools, as required by paragraph (2)(C)(ii) of subsection (b), the Commissioner shall—

(1) withhold approval of such application until the applicant demonstrates that it is in compliance with those requirements, or

(2) reduce the amount of the grant to such applicant by the amount which is required for the Commissioner to arrange (such as through a contract with a nonprofit, nonsecular agency, organization, or institution) to assess the needs of those children in the area to be served for a program of bilingual instruction and to carry out such a program for those children.

INDIAN CHILDREN IN SCHOOLS

SEC. 722. (a) For the purpose of carrying out programs under this part for individuals served by elementary and secondary schools operated predominantly for Indian children, a nonprofit institution or organization of the Indian tribe concerned which operates any such school and which is approved by the Commissioner for the purposes of this section may be considered to be a local educational agency as such term is used in this title.

[(b) From the sums appropriated pursuant to section 702(b), the Commissioner is authorized to make payments to the Secretary of the

Interior to carry out programs of bilingual education for children on reservations served by elementary and secondary schools for Indian children operated or funded by the Department of the Interior. The terms upon which payments for such purpose may be made to the Secretary of the Interior shall be determined pursuant to such criteria as the Commissioner determines will best carry out the policy of section 702(a).

[(c) The Secretary of the Interior shall prepare and, not later than November 1 of each year, shall submit to the Congress and the President an annual report detailing a review and evaluation of the use, during the preceding fiscal year, of all funds paid to him by the Commissioner under subsection (b) of this section, including complete fiscal reports, a description of the personnel and information paid for in whole or in part with such funds, the allocation of such funds, and the status of all programs funded from such payments. Nothing in this subsection shall be construed to relieve the Director of any authority or obligation under this part.]

(b) From the sums appropriated pursuant to section 702(b), the Commissioner is authorized to make payments to elementary and secondary schools operated or funded by the Bureau of Indian Affairs to carry out programs of bilingual education for Indian children on reservations served by such schools.

(c) The Assistant Secretary of the Interior for the Bureau of Indian Affairs shall submit to the Congress, the President, and the Commissioner, by September 30, 1980, an assessment of the needs of Indian children with respect to the purposes of this title in schools operated or funded by the Department of the Interior, including those tribes and local educational agencies receiving assistance under the Johnson-O'Malley Act (25 U.S.C. 452 et seq.) and an assessment of the extent to which such needs are being met by funds provided to such schools for educational purposes through the Secretary of the Interior.

(d) The Secretary of the Interior shall, together with the information required in the preceding subsection, submit to the Congress and the President, an assessment of the needs of Indian children with respect to the purposes of this title in schools operated or funded by the Department of the Interior, including those State educational agencies and local educational agencies receiving assistance under the Johnson-O'Malley Act (25 U.S.C. 452 et seq.) and an assessment of the extent to which such needs are being met by funds provided to such schools for educational purposes through the Secretary of the Interior.

TRAINING

SEC. 723. (a)(1) In carrying out the provisions of clauses (1) and (3) of subsection (a) of section 721, with respect to training, the Commissioner shall, through grants to, and contracts with, eligible applicants, as defined in subsection (b), provide for—

(A)(i) training, carried out in coordination with any other programs training auxiliary educational personnel, designed (I) to prepare personnel to participate in, or for personnel participating in, the conduct of programs of bilingual education, including programs emphasizing opportunities for career development, advancement, and lateral mobility, (II) to train teachers, administrators, *counselors*, paraprofessionals, teacher aides, and parents, and (III) to train persons to teach and counsel such persons, and (ii) special training programs designed (I) to meet individual needs, and (II) to encourage reform, innovation, and improvement in applicable education curricula in graduate education, in the structure of the academic profession, and in recruitment and retention of higher education and graduate school facilities, as related to bilingual education; and

(B) the operation of short-term training institutes designed to improve the skills of participants in programs of bilingual education in order to facilitate their effectiveness in carrying out responsibilities in connection with such programs.

(2) In addition the Commissioner is authorized to award fellowships for study in the field of training teachers for bilingual education. For the fiscal year ending June 30, 1975, not less than 100 fellowships leading to a graduate degree shall be awarded under the preceding sentence for preparing individuals to train teachers for programs of bilingual education. Such fellowships shall be awarded in proportion to the need for teachers of various groups of individuals with limited English-speaking ability. For each fiscal year after June 30, 1975, and prior to October 1, [1978,] *1983*, the Commissioner shall report to the Committee on Education and Labor of the House of Representatives and the Committee on [Labor and Public Welfare] *Human Resources* of the Senate on the number of fellowships in the field of training teachers for bilingual education which he recommends will be necessary for that fiscal year.

(3) The Commissioner shall include in the terms of any arrangement described in paragraphs (1) and (2) of subsection (a) of this section provisions for the payment, to persons participating in training programs so described, of such stipends (including allowances for subsistence and other expenses for such persons and their dependents) as he may determine to be consistent with prevailing practices under comparable federally supported programs.

(4) In making grants or contracts under this section, the Commissioner shall give priority to eligible applicants with demonstrated competence and experience in the field of bilingual education. Funds provided under grants or contracts for training activities described in this section to or with a State educational agency, separately or jointly, shall in no event exceed in the aggregate in any fiscal year 15 per centum of the total amount of funds obligated for training activities pursuant to clauses (1) and (3) of subsection (a) of section 721 in such year.

(5) The Commissioner shall undertake an ongoing longitudinal study of the impact of recipients of such fellowships on the field of bilingual education, and shall disseminate research undertaken by recipients of such fellowships.

(6) Any person receiving assistance under this subsection shall agree either to repay such assistance or to work for a period equivalent to the period of time during which such person received assistance, and such work shall be in an activity related to the training of teachers and

related personnel of bilingual education, as further determined by the Commissioner through regulations. The Commissioner may waive this requirement in extraordinary circumstances.

(*7*) *The Commissioner shall issue regulations specifying such activities as shall constitute training under this section and section 721*(*b*)(*2*)(*B*).

[(5)](*8*) An application for a grant or contract for preservice or inservice training activities described in clause (A)(i)(I) and clause (A)(ii)(I) and in subsection (a)(1)(B) of this section shall be considered an application for a program of bilingual education for the purposes of subsection (a)(4)(E) of section 703.

(b) For the purposes of this section, the term "eligible applicants" means—

(1) institutions of higher education (including junior colleges and community colleges *and private nonprofit organizations*) which apply, after consultation with, or jointly with, one or more local educational agencies [;] *or a State educational agency; and*

(2) local educational agencies [; and].

[(3) State educational agencies.]

PART B—ADMINISTRATION

OFFICE OF BILINGUAL EDUCATION

SEC. 731. (a) There shall be, in the Office of Education, an Office of Bilingual Education (hereafter in this section referred to as the "Office") through which the Commissioner shall carry out his functions relating to bilingual education.

(b)(1) The Office shall be headed by a Director of Bilingual Education, appointed by the Commissioner, to whom the Commissioner shall delegate all of his delegable functions relating to bilingual education. *The Director shall also be assigned responsibility for coordinating the bilingual education aspects of other programs administered by the Commissioner.*

(2) The Office shall be organized as the Director determines to be appropriate in order to enable him to carry out his functions and responsibilities effectively.

(c) The Commissioner, in consultation with the Council, shall prepare and, [not later than November 1, 1976, and February 1, 1978] shall submit to the Congress and the President [a] *an annual* report on the condition of bilingual education in the Nation and the administration and operation of this title and of other programs for persons [of limited English-speaking ability] *with limited English language skills.* Such report shall include—

(1) a national assessment of the educational needs of children and other persons with limited English-speaking ability and of the extent to which such needs are being met from Federal, State, and local efforts, including (A) not later than October 1, 1977, the results of a survey of the number of such children and persons in the States, and (B) a plan, including cost estimates, to be carried out during the five-year period beginning on such date, for extending programs of bilingual education and bilingual vocational and adult education programs to all such preschool and elemen-

tary school children and other persons [of limited English-speaking ability] *with limited English language skills*, including a phased plan for the training of the necessary teachers and other educational personnel necessary for such purpose;

(2) a report on and an evaluation of the activities carried out under this title during the preceding fiscal year and the extent to which each of such activities achieves the policy set forth in section 702(a);

(3) a statement of the activities intended to be carried out during the succeeding period, including an estimate of the cost of such activities;

(4) an assessment of the number of teachers and other educational personnel needed to carry out programs of bilingual education under this title and those carried out under other programs for persons [of limited English-speaking ability] *with limited English language skills* and a statement describing the activities carried out thereunder designed to prepare teachers and other educational personnel for such programs, and the number of other educational personnel needed to carry out programs of bilingual education in the States and a statement describing the activities carried out under this title designed to prepare teachers and other educational personnel for such programs; and

(5) a description of the personnel, the functions of such personnel, and information available at the regional offices of the Department of Health, Education, and Welfare dealing with bilingual programs within that region.

The Commissioner shall conduct a study on the extent of the need for these programs in the Commonwealth of Puerto Rico, and shall report the results thereof, together with recommendations, to the President and Congress, in the first annual report submitted, pursuant to this subsection, more than ninety days after the date of enactment of the Education Amendments of 1978.

(d) The Commissioner shall, within six months after the date of the enactment of Education Amendments of 1978, develop and publish in the Federal Register (1) models for programs of bilingual education which may include suggested teacher-pupil ratios, teacher qualifications, and other factors affecting the quality of instruction offered, and which shall represent a variety of types of such programs, and (2) models for the evaluation of such programs as to the progress made by participants therein in attaining English language skills.

(e)(1) The Secretary, in consultation with the Council, shall prepare and, not later than September 30, 1980, submit to the Congress and the President a report identifying the approximate number of children with limited English language skills in the Nation, by language and by State.

(2) By September 30, 1980, the Secretary shall develop methods for identifying children with limited English language skills who are in need of bilingual education programs.

(3) By September 30, 1980, the Secretary shall develop evaluation and data gathering models, which take into account linguistic and cultural differences of the child, which consider the availability and the operations of State programs for such children, and shall include

allowances for variables which are applicable to programs under this title such as pupil-teacher ratios, teacher qualifications, length of the programs, hours of instruction, percentage of children in the classroom who are English dominant and the percentage who have limited English language skills.

(f) In order to maximize Federal efforts aimed at serving the educational needs of children with limited English language skills, the Commissioner shall coordinate and closely cooperate with other programs administered by the Office of Education, including such areas as teacher training, program content, research, and curriculum. The Commissioner's annual report under subsection (c) shall include demonstration that such coordination has taken place.

(g) The Commissioner shall ensure that the Office of Bilingual Education is adequately staffed to effectively discharge the provisions of this title.

NATIONAL ADVISORY COUNCIL ON BILINGUAL EDUCATION

SEC. 732. (a) Subject to part D of the General Education Provisions Act, there shall be a National Advisory Council on Bilingual Education composed of fifteen members appointed by the Secretary, one of whom he shall designate as Chairman. At least eight of the members of the Council shall be persons experienced in dealing with the educational problems of children and other persons who are [of limited English-speaking ability] *with limited English language skills*, at least one of whom shall be representative of persons serving on boards of education operating programs of bilingual education. At least [three] *two* members shall be experienced in the training of teachers in programs of bilingual education. At least two members shall be persons with general experience in the field of elementary and secondary education. At least two members shall be classroom teachers of demonstrated teaching abilities using bilingual methods and techniques. *The Council shall also include at least two parents of students whose language is other than English and at least one State educational agency representative and one member at large.* The members of the Council shall be appointed in such a way as to be generally representative of the significant segments of the population of persons [of limited English-speaking ability] *with limited English language skills* and the geographic areas in which they reside. Subject to section 448(b) of the General Education Provisions Act, the Advisory Committee shall continue to exist until [July 1, 1978] *October 1, 1983.*

(b) The Council shall meet at the call of the Chairman, but notwithstanding the provisions of section 446(a) of the General Education Provisions Act, not less often than four times in each year.

(c) The Council shall advise the Commissioner in the preparation of general regulations and with respect to policy matters arising in the administration and operation of this title, including the development of criteria for approval of applications, and plans under this title, and the administration and operation of other programs for persons [of limited English-speaking ability] *with limited English language skills.* The Council shall prepare and, not later than March 31 of each year, submit a report to the Congress and the President on the condition of bilingual education in the Nation and on the administration and operation of this title, including those items specified in section 731(c), and the administration and operation of other programs for persons [of limited English-speaking ability] *with limited English language skills.*

(d) The Commissioner shall procure temporary and intermittent services of such personnel as are necessary for the conduct of the functions of the Council, in accordance with section 445, of the General Education Provisions Act, and shall make available to the Council such staff, information, and other assistance as it may require to carry out its activities effectively.

PART C—SUPPORTIVE SERVICES AND ACTIVITIES

ADMINISTRATION

SEC. 741. (a) The provisions of this part shall be administered by the Assistant Secretary, in consultation with—

(1) the Commissioner, through the Office of Bilingual Education; and

(2) the Director of the National Institute of Education, notwithstanding the second sentence of section 405(b)(1) of the General Education Provisions Act;

in accordance with regulations.

(b) The Assistant Secretary shall, in accordance with clauses (1) and (2) of subsection (a), develop and promulgate regulations for this part and then delegate his functions under this part, as may be appropriate under the terms of section 742.

RESEARCH AND DEMONSTRATION PROJECTS

SEC. 742. (a) The National Institute of Education shall, in accordance with the provisions of section 405 of the General Education Provisions Act, carry out a program of research in the field of bilingual education in order to enhance the effectiveness of bilingual education programs carried out under this title and other programs for persons [of limited English-speaking ability.] *with limited English language skills.*

(b) In order to test the effectiveness of research findings by the National Institute of Education and to demonstrate new or innovative practices, techniques, and methods of use in such bilingual education programs, the Director of the National Institute of Education and the Commissioner are authorized to make competitive contracts with public and private educational agencies, institutions, and organizations for such purpose.

(c) In carrying out their responsibilities under this section, the Commissioner and the Director of the National Institute of Education shall, through competitive contracts with appropriate public and private agencies, institutions, and organizations—

(1) undertake studies to determine the basic educational needs and language acquisition characteristics of, and the most effective conditions for, educating children [of limited English-speaking ability] *with limited English language skills*;

(2) conduct research, development, and evaluation activities designed to improve the means by which teachers are trained for

programs of bilingual instruction, and disseminate the results of those activities;

(*3*) *conduct research, development, and evaluation activities into the effectiveness of taking account of the cultural heritage of children as a means of improving the achievement of children with limited English language skills, and disseminate the results of those activities;*

[(2)] (*4*) develop, and disseminate instructional materials and equipment suitable for use in bilingual education programs; and

[(3)] (*5*) establish and operate a national clearinghouse of information for bilingual education, which shall collect, analyze, and disseminate information about bilingual education and such bilingual education and related programs.

Materials developed pursuant to paragraph (4) shall be of comparable quality as those provided in classrooms for English dominant children. In such development the availability of materials already in existence in private and public sources shall be taken into account, and special attention shall be given to those language groups for whom private organizations are unlikely to develop such materials.

(d) In carrying out their responsibilities under this section, the Commissioner and the Director of the National Institute of Education shall provide for periodic consultation with representatives of State and local educational agencies and appropriate groups and organizations involved in bilingual education.

[(e) There is authorized to be appropriated for each fiscal year prior to July 1, 1978, $5,000,000 to carry out the provisions of this section.]

(*e*) *There are authorized to be appropriated, for the purpose of carrying out this section, $20,000,000 for fiscal year 1979, and such sums as may be necessary for each of the four succeeding fiscal years.*

PART D—CONTINUED BILINGUAL EDUCATION ASSISTANCE

ASSISTANCE TO LOCAL EDUCATIONAL AGENCIES ELIGIBLE UNDER THE EMERGENCY SCHOOL AID ACT

SEC. 751. (*a*) (*1*) *The Commissioner, from funds appropriated under subsection* (*c*), *shall carry out a program to meet the needs of minority group children* (*as such term is defined for purposes of the Emergency School Aid Act*) *who are from an environment in which a dominant language is other than English and who, because of language barriers and cultural differences, do not have equality of educational opportunity. The Commissioner shall, for the fiscal year ending September 30, 1979, allot to each local educational agency an amount which bears the same ratio to such funds as the amount such agency received under section 708(c) of the Emergency School Aid Act for the fiscal year ending September 30, 1978, bears to the total amount of funds available under such section. From such allotment the Commissioner is authorized to make grants to and contracts with—*

(*A*) *private nonprofit agencies, institutions, and organizations to develop curricula, at the request of one or more local educational agencies which are eligible for assistance under section 706 of the*

Emergency School Aid Act designed to meet the special educational needs of minority group children who are from environments in which a dominant language is other than English, for the development of reading, writing, and speaking skills, in the English language and in the language of their parents or grandparents, and to meet the educational needs of such children and their classmates to understand the history and cultural background of the minority groups of which such children are members;

(B) local educational agencies which are eligible for assistance under such section 706 for the purpose of engaging in such activities; or

(C) local educational agencies which are eligible to receive assistance under such section 706, for the purpose of carrying out activities to implement curricula developed under clauses (A) and (B) or curricula otherwise developed which the Commissioner determines meets the purposes stated in clause (A).

In making grants and contracts under this paragraph, the Commissioner shall assure that sufficient funds remain available to provide for grants and contracts under clause (C) of this paragraph for implementation of such curricula as the Commissioner determines meet the purposes stated in clause (A) of this paragraph. In making a grant or contract under clause (C) of this paragraph the Commissioner shall take whatever action is necessary to assure that the implementation plan includes provisions adequate to ensure training of teachers and other ancillary educational personnel.

(2)(A) In order to be eligible for a grant or contract under this subsection—

(i) a local educational agency must establish a program or project committee meeting the requirements of subparagraph (B), which will fully participate in the preparation of the application under this subsection and in the implementation of the program or project and join in submitting such application; and

(ii) a private nonprofit agency, institution, or organization must (I) establish a program or project board of not less than ten members which meets the requirements of subparagraph (B) and which shall exercise policymaking authority with respect to the program or project, and (II) have demonstrated to the Commissioner that it has the capacity to obtain the services of adequately trained and qualified staff.

(B) A program or project committee or board, established pursuant to subparagraph (A), must be broadly representative of parents, school officials, teachers, and interested members of the community or communities to be served, not less than half of the members of which shall be parents and not less than half of the members of which shall be members of the minority group the educational needs of which the program or project is intended to meet.

(3) All programs or projects assisted under this subsection shall be specifically designed to complement any programs or projects carried out by the local educational agency under section 706 of the Emergency School Aid Act. The Commissioner shall insure that programs

of Federal financial assistance related to the purposes of this subsection are coordinated and carried out in a manner consistent with the provisions of this subsection, to the extent consistent with other law.

(b) All programs or projects assisted under subsection (a) shall be part of a program of bilingual-bicultural education.

(c) There are authorized to be appropriated to carry out subsection (a) $10,000,000 for the fiscal year ending September 30, 1979, $15,000,000 for the fiscal year ending September 30, 1980, $20,000,000 for the fiscal year ending September 30, 1981, $25,000,000 for the fiscal year ending September 30, 1982, and $30,000,000 for the fiscal year ending September 30, 1983.

TITLE VIII—GENERAL PROVISIONS

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DEFINITIONS

SECTION 801. As used in titles II, III, IV, V, VI, and VII of this Act, except when otherwise specified—

(a) * * *

* * * * * * *

(j) The term "State" includes, in addition to the several States of the Union, the Commonwealth of Puerto Rico, the District of Columbia, Guam, American Samoa, *the Northern Mariana Islands*, and the Virgin Islands and for purposes of titles II, III, IV, VI, and VII, such terms also includes the Trust Territory of the Pacific Islands.

[STATUTE OF LIMITATIONS ON REFUND OF PAYMENTS

[SEC. 804. No State or local educational agency shall be liable to refund any payment made to such agency under this Act (including title I of this Act) which was subsequently determined to be unauthorized by law, if such payment was made more than five years before such agency received final written notice that such payment was unauthorized.]

* * * * * * *

DROPOUT PREVENTION PROJECTS

SEC. 807. (a) * * *

* * * * * * *

(c) For the purpose of carrying out the provisions of this section, there is hereby authorized to be appropriated $30,000,000 for each of the fiscal years ending June 30, 1970, and June 30, 1971, $31,500,000 for the fiscal year ending June 30, 1972, and $33,000,000 for the fiscal year ending June 30, 1973, and each succeeding fiscal year ending prior to October 1, [1979.] *1983*, except that no funds are authorized to be appropriated for obligation during any year for which funds are available for obligation for carrying out part C of title IV.

GRANTS FOR DEMONSTRATION PROJECTS TO IMPROVE SCHOOL NUTRITION AND HEATH SERVICES FOR CHILDREN FROM LOW-INCOME FAMILIES

SEC. 808. (a) * * *

* * * * * * *

(d) For the purpose of making grants under this section there are hereby authorized to be appropriated $2,000,000 for the fiscal year ending June 30, 1970, $10,000,000 for the fiscal year ending June 30, 1971, $16,000,000 for the fiscal year ending June 30, 1972, and $26,000,000 for the fiscal year ending June 30, 1973, and each succeeding fiscal year ending prior to October 1, [1979,] *1983*, except that no funds are authorized to be appropriated for obligation during any year for which funds are available for obligation for carrying out part C of title IV.

* * * * * * *

[RESEARCH AND DEMONSTRATION PROJECTS IN CORRECTION EDUCATION SERVICES

[SEC. 809. (a) The Commissioner is authorized to make grants to State and local educational agencies, institutions of higher education, and other public and private nonprofit research agencies and organizations for research or demonstration projects, relating to the academic and vocational education of antisocial, aggressive, or delinquent persons, including juvenile delinquents, youth offenders, and adult criminal offenders, including the development of criteria for the identification for specialized educational instruction of such persons from the general elementary and secondary school age population and special curriculums, and guidance and counseling programs. All projects shall include an evaluation component.

[(b) The Commissioner is authorized to appoint such special or technical advisory committees as he may deem necessary to advise him on matters of general policy relating to the education of persons intended to be benefited by this section, and shall secure the advice and recommendations of the Director, Bureau of Prisons, of the Director, Office of Juvenile Delinquency and Youth Development, the Director of the Teacher Corps, the head of the National Institute of Law Enforcement and Criminal Justice, the Administrator of the Law Enforcement Assistance Administration, and such other persons and organizations as he, in his discretion, deems necessary before making any grant under this section.

[(c) For the purpose of carrying out this section, there is authorized to be appropriated $500,000 for the fiscal year ending June 30, 1974, and for the succeeding fiscal year.]

IMPROVEMENT OF EDUCATIONAL OPPORTUNITIES FOR INDIAN CHILDREN

SEC. 810. (a) * * *

(b) The Commissioner is authorized to make grants to State and local educational agencies, federally supported elementary and secondary schools for Indian children and to Indian tribes, *Indian* organizations, and *Indian* institutions to support planning, pilot, and demonstration projects which are designed to plan for, and test and demonstrate the effectiveness of, programs for improving educational opportunities for Indian children, including—

(1) innovative programs related to the educational needs of educationally deprived children;

(2) bilingual and bicultural education programs and projects;

(3) special health and nutrition services, and other related activities, which meet the special health, social, and psychological problems of Indian children; and

(4) coordinating the operation of other federally assisted programs which may be used to assist in meeting the needs of such children.

(c) The Commissioner is also authorized to make grants to State and local educational agencies and to tribal and other Indian community organizations to assist and stimulate them in developing and establishing educational services and programs specifically designed to improve educational opportunities for Indian children. Grants may be used—

(1) to provide educational services not available to such children in sufficient quantity, including—

(A) remedial and compensatory instruction, school health, physical education, psychological, and other services designed to assist and encourage Indian children to enter, remain in, or reenter elementary or secondary school;

(B) comprehensive academic and vocational instruction;

(C) instructional materials (such as library books, textbooks, and other printed or published or audiovisual materials) and equipment;

(D) comprehensive guidance, counseling, and testing services;

(E) special education programs for handicapped *and gifted and talented Indian children*;

[(F) preschool programs;] *(F) early childhood programs, including kindergarten;*

(G) bilingual and bicultural education programs; and

(H) other services which meet the purposes of this subsection; and

(2) for the establishment and operation of exemplary and innovative educational programs and centers, involving new educational approaches, methods, and techniques designed to enrich programs of elementary and secondary education for Indian children.

* * * * * * *

[(e) The Commissioner is also authorized to make grants to and contracts with, public agencies, and institutions and Indian tribes, institutions, and organizations for—

[(1) the dissemination of information concerning education programs, services, and resources available to Indian children, including evaluations thereof; and

[(2) the evaluation of the effectiveness of federally assisted programs in which Indian children may participate in achieving the purposes of such programs with respect to such children.]

(e)(1) The Commissioner is also authorized to make grants to and contracts with public agencies, State educational agencies in States in which more than five thousand Indian children are enrolled in public elementary and secondary schools, Indian tribes, Indian institutions, Indian organizations, or to make contracts with private institutions and organizations, to establish, on a regional basis, information centers to—

(A) evaluate programs assisted under this part, under the Indian Elementary and Secondary School Assistance Act, under section 314 of the Adult Education Act, and other Indian education programs in order to determine their effectiveness in meeting the special educational and culturally related academic needs of Indian children and to conduct research to determine those needs;

(B) provide technical assistance upon request to local educational agencies and Indian tribes, Indian organizations, Indian institutions, and parent committees created pursuant to section 305(b)(2)(B)(ii) of the Indian Elementary and Secondary School Assistance Act in evaluating and carrying out programs assisted under this part, under such Act, and under section 314 of the Adult Education Act through the provision of materials and personnel resources; and

(C) disseminate information upon request to the parties described in subparagraph (B) concerning all Federal education programs which affect the education of Indian children including information on successful models and programs designed to meet the special educational needs of Indian children.

(2) Grants or contracts made pursuant to this subsection may be made for a term not to exceed three years (renewable at the end of that period subject to the approval of the Commissioner) provided that provision is made to ensure annual review of the projects.

(f)*(1)* Applications for a grant under this section shall be submitted at such time, in such manner, and shall contain such information, and shall be consistent with such criteria, as may be established as requirements in regulations promulgated by the Commissioner. Such applications shall—

[1]*(A)* set forth a statement describing the activities for which assistance is sought;

[2]*(B)* in the case of an application for the purposes of subsection (c), subject to such criteria as the Commissioner shall prescribe, provide for the use of funds available under this section, and for the coordination of other resources available to the applicant, in order to insure that, within the scope of the purpose of the project, there will be a comprehensive program to achieve the purposes of this section;

[3]*(C)* in the case of an application for the purposes of subsection (c), make adequate provision for the training of the personnel participating in the project; and

[4]*(D)* provide for an evaluation of the effectiveness of the project in achieving its purposes and those of this section.

The Commissioner shall not approve an application for a grant under subsection (b) or (c) unless he is satisfied that such application, and any documents submitted with respect thereto, show that there has been adequate participation by the parents of the children to be served and tribal communities in the planning and development of the project, and that there will be such a participation in the operation and evaluation of the project. The Commissioner shall not approve an application for a grant under subsection (b), (c), or (d) unless he is satisfied that such an application, to the extent consistent with the number of eligible children in the area to be served who are enrolled in private nonprofit elementary and secondary schools whose needs are of the type which the program is intended to meet, makes provision for the participation of such children on an equitable basis. In approving applications under this section, the Commissioner shall give priority to applications from Indian educational agencies, organizations, and institutions.

(2) The Commissioner shall not approve an application for a grant under subsection (e) of this section unless he is satisfied that the funds made available under that subsection will be so used as to supplement the level of funds from State, local, and other Federal sources that would, in the absence of Federal funds under this subsection, be made available by the State or local educational agency for the activities described in this subsection, and in no case will be used so as to supplant those funds.

(g)*(1)* For the purpose of making grants under this section there are hereby authorized to be appropriated $25,000,000 for the fiscal year ending June 30, 1973, and $35,000,000 for each of the succeeding fiscal years ending prior to [July 1, 1978] *October 1, 1983.*

(2) For the purpose of making grants under subsection (e) of this section there are hereby authorized to be appropriated $8,000,000 for each of the fiscal years ending prior to October 1, 1983: Provided, That the sum of the grants made to State educational agencies under subsection (e) of this section shall not exceed 15 per centum of the sums appropriated.

[CONSUMERS' EDUCATION PROGRAMS

[SEC. 811. (a)(1) There shall be within the Office of Education an Office of Consumers' Education (hereafter in this section referred to as the "Office") which shall be headed by a Director of Consumers' Education (hereafter in this section referred to as the "Director") who, subject to the management of the Commissioner, shall have responsibility for carrying out the provisions of this section.

[(2) The Director shall be appointed by the Commissioner in accordance with the provisions of title 5 of the United States Code relating to appointments to the competitive service.

[(b)(1)(A) The Director shall carry out a program of making grants to, and contracts with, institutions of higher education, State and local educational agencies, and other public and private agencies, organizations, and institutions (including libraries) to support research, demonstration, and pilot projects designed to provide consumer education to the public except that no grant may be made other than to a nonprofit agency, organization, or institution.

[(B) Funds appropriated for grants and contracts under this section shall be available for such activities as—

[(i) the development of curricula (including interdisciplinary curricula) in consumer education;

[(ii) dissemination of information relating to such curricula;

[(iii) in the case of grants to State and local educational agencies and institutions of higher education, for the support of education programs at the elementary and secondary and higher education levels; and

[(iv) preservice and inservice training programs and projects (including fellowship programs, institutes, workshops, symposiums, and seminars) for educational personnel to prepare them to teach in subject matter areas associated with consumer education.

In addition to the activities specified in the first sentence of this paragraph, such funds may be used for projects designed to demonstrate, test, and evaluate the effectiveness of any such activities, whether or not assisted under this section. Activities pursuant to this section shall provide bilingual assistance when appropriate.

[(C) Financial assistance under this subsection may be made available only upon application to the Director. Applications under this subsection shall be submitted at such time, in such form, and containing such information as the Director shall prescribe by regulation and shall be approved only if it—

[(i) provides that the activities and service for which assistance is sought will be administered by, or under the supervision of, the applicant;

[(ii) describes a program for carrying out one or more of the purposes set forth in the first sentence of subparagraph (B) which holds promise of making a substantial contribution toward attaining the purposes of this section;

[(iii) sets forth such policies and procedures as will insure adequate evaluation of the activities intended to be carried out under the application;

[(iv) sets forth policies and procedures which assure that Federal funds made available under this section for any fiscal year will be so used as to supplement and, to the extent practical increase the level of funds that would, in the absence of such Federal funds, be made available by the applicant for the purposes described in this section, and in no case supplant such funds;

[(v) provides for such fiscal control and fund accounting procedures as may be necessary to assure proper disbursement of an accounting for Federal funds paid to the applicant under this section; and

[(vi) provides for making an annual report and such other reports, in such form and containing such information, as the Commissioner may reasonably require and for keeping such records, and for affording such access thereto as the Commissioner may find necessary to assure the correctness and verification of such reports.

Applications from local educational agencies for financial assistance under this section may be approved by the Director only if the State educational agency has been notified of the application and been given the opportunity to offer recommendations.

[(2) Federal assistance to any program or project under this subsection, other than those involving curriculum development, dissemination of curricular materials, and evaluation, shall support up to 100 per centum of the cost of such program including costs of administration; contributions in kind are acceptable as local contributions to program costs.

[(c) Each recipient of Federal funds under this section shall make such reports and evaluations as the Commissioner shall prescribe by regulation.

[(d) For the purpose of carrying out this section, the Commissioner is authorized to expend not to exceed $15,000,000 for each fiscal year ending prior to October 1, 1979.]

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GRANTS TO IMPLEMENT EDUCATIONAL PROFICIENCY STANDARDS

Sec. 813. (a) The Commissioner may make grants to any State educational agency (or to any local educational agency located in a State in which the State educational agency has not submitted an application for a grant under this section) to carry out any plan approved by the Commissioner in accordance with this section to assist students in achieving levels of educational proficiency compatible with basic standards established by such educational agency.

(b)(1) Each applicant which desires to receive a grant under this section may submit an application to the Commissioner. Any such application shall be submitted in such form, and in accordance with such procedures, as the Commissioner shall require and shall contain an educational proficiency plan, as described in paragraph (2) of this subsection.

(2) The educational proficiency plan referred to in paragraph (1) of this subsection—

(A) shall contain a description of the educational proficiency standards established by the applicant for reading, writing mathematics, and any other subject for which the Commissioner may require such standards;

(B) shall contain a description of the programs designed to assist students in achieving levels of educational proficiency compatible with the standards described in subparagraph (A) of this paragraph;

(C) may provide for the administration of examinations to students, at specified intervals or grade levels, to measure their reading, writing, or mathematical proficiency, or their proficiency in other subjects which the applicant considers appropriate for testing; and

(D) shall contain the assurances of the applicant that any student who fails any examination provided for under subparagraph (C) of this paragraph shall be offered supplementary instruction in the subject matter covered by such examination.

(c) The Commissioner shall award a grant to any applicant, in such amounts as the Commissioner considers appropriate, only if (1) the Commissioner approves the educational proficiency plan submitted by

the applicant pursuant to subsection (b) of this section, and (2) the application submitted pursuant to such subsection satisfies all other requirements established by the Commissioner. Grants awarded under this section may be used by applicants to implement their educational proficiency plans, including the provision of supplementary instruction to be provided to students who fail the examinations.

(d) There are authorized to be appropriated to carry out this section such sums as may be necessary for the fiscal year ending September 30, 1979, and for each of the four succeeding fiscal years.

(e) For purposes of this section, the term "applicant" means any State or local educational agency which submits an application under this section.

(f) Nothing in this section shall authorize the Commissioner to impose tests on State educational agencies or local educational agencies, and no such agency shall be compelled in any way to apply for funds under this section.

ACHIEVEMENT TESTING ASSISTANCE

SEC. 814. (a) The Secretary shall, either directly or through grants to or contracts with State and local educational agencies and other public and private nonprofit agencies, organizations, and institutions, assist State and local educational agencies to develop their capacity to conduct programs of testing the achievement in the basic skills of children in elementary and secondary schools. Activities that may be supported under this section include—

(1) disseminating information to State and local educational agencies on the availability and uses of achievement tests;

(2) training of and assistance to administrators, teachers, and other instructional personnel in the use of tests and test results; and

(3) research and evaluation designed to determine improved means of assessing more accurately the achievement of children in basic skills and of diagnosing instructional needs.

(b) Nothing in this section shall authorize the Secretary to develop specific tests or test questions.

(c) There are authorized to be appropriated to carry out this section such sums as may be necessary for the fiscal year ending September 30, 1980, and for each of the three succeeding fiscal years.

WAIVER OF REQUIREMENTS FOR CERTAIN JURISDICTIONS

SEC. 815. (a) If the Commissioner determines that compliance with any of the requirements of this Act by Puerto Rico, Guam, American Samoa, the Virgin Islands, the Northern Mariana Islands, or the Trust Territory of the Pacific Islands is impractical or inappropriate because of conditions or circumstances particular to any of such jurisdictions, he may waive any of those requirements upon the request of the State educational agency for such jurisdiction. At least thirty days prior to approving any such request for a waiver, the Commissioner shall publish in the Federal Register a notice of his intent to grant such a waiver and the terms and conditions upon which such a waiver will be granted.

(b) Any waiver of requirements under this section shall be subject to such terms and conditions as the Commissioner deems necessary to carry out the purposes of this Act, including the submission by the jurisdiction concerned of a plan for the management of the funds provided under this Act in order to insure that those funds are used in a manner designed to achieve the purposes of this Act.

REQUIREMENT OF FUNDING AUTHORITY

Sec. 816. Notwithstanding any other provision of this Act, no authority to enter into contracts or to make payments under this Act shall be effective except to such extent or in such amounts as are provided in advance in appropriations Acts.

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[TITLE IX—ETHNIC HERITAGE PROGRAM

[STATEMENT OF POLICY

[Sec. 901. In recognition of the heterogeneous composition of the Nation and of the fact that in a multiethnic society a greater understanding of the contributions of one's own heritage and those of one's fellow citizens can contribute to a more harmonious, patriotic, and committed populace, and in recognition of the principle that all persons in the educational institutions of the Nation should have an opportunity to learn about the differing and unique contributions to the national heritage made by each ethnic group, it is the purpose of this title to provide assistance designed to afford to students opportunities to learn about the nature of their own cultural heritage, and to study the contributions of the cultural heritages of the other ethnic groups of the Nation.

[ETHNIC HERITAGE STUDIES PROGRAMS

[Sec. 902. The Commissioner is authorized to make grants to, and contracts with, public and private nonprofit educational agencies, institutions, and organizations to assist them in planning, developing, establishing, and operating ethnic heritage studies programs, as provided in this title.

[AUTHORIZED ACTIVITIES

[Sec. 903. Each program assisted under this title shall—

[(1) develop curriculum materials for use in elementary or secondary schools or institutions of higher education relating to the history, geography, society, economy, literature, art, music, drama, language, and general culture of the group or groups with which the program is concerned, and the contributions of that ethnic group or groups to the American heritage; or

[(2) disseminate curriculum materials to permit their use in elementary or secondary schools or institutions of higher education throughout the Nation; or

[(3) provide training for persons using, or preparing to use, curriculum materials developed under this title; and

[(4) cooperate with persons and organizations with a special interest in the ethnic group or groups with which the program is concerned to assist them in promoting, encouraging, developing, or producing programs or other activities which relate to the history, culture, or traditions of that ethnic group or groups.

[APPLICATIONS

[SEC. 904. (a) Any public or private nonprofit agency, institution, or organization desiring assistance under this title shall make application therefor in accordance with the provisions of this title and other applicable law and with regulations of the Commissioner promulgated for the purposes of this title. The Commissioner shall approve an application under this title only if he determines that—

[(1) the program for which the application seeks assistance will be operated by the applicant and that the applicant will carry out such program in accordance with this title;

[(2) such program will involve the activities described in section 903; and

[(3) such program has been planned, and will be carried out, in consultation with an advisory council which is representative of the ethnic group or groups with which the program is concerned and which is appointed in a manner prescribed by regulation.

[(b) In approving applications under this title, the Commissioner shall insure that there is cooperation and coordination of efforts among the programs assisted under this title, including the exchange of materials and information and joint programs where appropriate.

[ADMINISTRATIVE PROVISIONS

[SEC. 905. (a) In carrying out this title, the Commissioner shall make arrangements which will utilize (1) the research facilities and personnel of institutions of higher education, (2) the special knowledge of ethnic groups in local communities and of foreign students pursuing their education in this country, (3) the expertise of teachers in elementary and secondary schools and institutions of higher education, and (4) the talents and experience of any other groups such as foundations, civic groups, and fraternal organizations which would further the goals of the programs.

[(b) Funds appropriated to carry out this title may be used to cover all or part of the cost of establishing and carrying out the programs, including the cost of research materials and resources, academic consultants, and the cost of training of staff for the purpose of carrying out the purposes of this title. Such funds may also be used to provide stipends (in such amounts as may be determined in accordance with regulations of the Commissioner) to individuals receiving training as part of such programs, including allowances for dependents.

[NATIONAL ADVISORY COUNCIL

[SEC. 906. (a) There is hereby established a National Advisory Council on Ethnic Heritage Studies consisting of fifteen members appointed by the Secretary who shall be appointed, serve, and be compensated as provided in part D of the General Education Provisions Act.

[(b) Such Council shall, with respect to the program authorized by this title, carry out the duties and functions specified in part D of the General Education Provisions Act.

[APPROPRIATIONS AUTHORIZED

[SEC. 907. For the purpose of carrying out this title, there are authorized to be appropriated $15,000,000 for each of the fiscal years ending prior to July 1, 1978. Sums appropriated pursuant to this section shall, notwithstanding any other provision of law unless enacted in express limitation of this sentence, remain available for expenditure and obligation until the end of the fiscal year succeeding the fiscal year for which they were appropriated.]

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EDUCATION AMENDMENTS OF 1972

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TITLE VII—EMERGENCY SCHOOL AID

SHORT TITLE

SEC. 701. This title may be cited as the "Emergency School Aid Act."

FINDINGS AND PURPOSE

SEC. 702. (a) The Congress finds that the process of eliminating or preventing minority group isolation and improving the quality of education for all children often involves the expenditure of additional funds to which local educational agencies do not have access.

(b) The purpose of this title is to provide financial assistance—

(1) to meet the special needs incident to the elimination of minority group segregation and discrimination among students and faculty in elementary and secondary schools;

(2) to encourage the voluntary elimination, reduction, or prevention of minority group isolation in elementary and secondary schools with substantial proportions of minority group students; and

(3) to aid school children in overcoming the educational disadvantages of minority group isolation.

POLICY WITH RESPECT TO THE APPLICATION OF CERTAIN PROVISIONS OF FEDERAL LAW

SEC. 703. (a) It is the policy of the United States that guidelines and criteria established pursuant to this title shall be applied uniformly in all regions of the United States in dealing with conditions of segregation by race in the schools of the local educational agencies of any State without regard to the origin or cause of such segregation.

(b) It is the policy of the United States that guidelines and criteria established pursuant to title VI of the Civil Rights Act of 1964 and section 182 of the Elementary and Secondary Education Amendments of 1966 shall be applied uniformly in all regions of the United States in dealing with conditions of segregation by race whether de jure or de facto in the schools of the local educational agencies of any State without regard to the origin or cause of such segregation.

APPROPRIATIONS

[SEC. 704. (a) The Assistant Secretary shall, in accordance with the provisions of this title, carry out a program designed to achieve the purpose set forth in section 702(b). There are authorized to be appropriated for the purpose of carrying out this title, $1,000,000,000 for the fiscal year ending June 30, 1973, and $1,000,000,000 for the period ending June 30, 1976, and $1,000,000,000 for the period beginning July 1, 1976, and ending September 30, 1979, except that of the sums available under section 708(a), the Assistant Secretary is limited in the use of such sums to an amount, not more than 5 percent, which may be used for providing compensatory services to students who had previously received such services funded in whole or in part under title I of the Elementary and Secondary Education Act of 1965, but who are no longer receiving such services as a result of attendance area changes under a desegregation order or plan issued after August 21, 1974. Funds so appropriated shall remain available for obligation and expenditure during the fiscal year succeeding the fiscal year for which they are appropriated.

[(b) From the sums appropriated pursuant to subsection (a) for any fiscal year, the Assistant Secretary shall reserve an amount equal to 13 per centum thereof for the purposes of section 708 (a) and (c), 711, and 713, of which—

[(A) not less than an amount equal to 4 per centum of such sums shall be for the purposes of section 708(c); and

[(B) not less than an amount equal to 3 per centum of such sums shall be for the purposes of section 711.

[(c) There are authorized to be appropriated, in addition to the sums authorized under subsection (a) of this section $50,000,000 for fiscal year 1977, and $100,000,000 for fiscal year 1978, for the purpose of carrying out section 708(a), relating to special programs and projects. The provisions of section 705, relating to apportionment among the States, shall not apply to sums appropriated pursuant to this subsection.

[(d) There are authorized to be appropriated in addition to the sums authorized under subsection (a) of this section $25,000,000 for fiscal year 1977 and $50,000,000 for fiscal year 1978, for the purpose of carrying out activities specified in paragraphs (13) through (15) of section 707(a) of this Act. The provisions of section 705, relating to apportionment among the States, shall not apply to sums appropriated pursuant to this subsection.]

SEC. 704. (a) The Assistant Secretary shall, in accordance with the provisions of this title, carry out a program designed to achieve the purpose set forth in section 702(b). There are authorized to be appropriated for the purposes of this title, to be apportioned among the States in accordance with section 705, $155,000,000 for fiscal year 1980 and for each of the three succeeding fiscal years.

(b)(1) There are further authorized to be appropriated for the purpose of this title such sums as may be necessary for fiscal year 1980 and each of the three succeeding fiscal years for special programs and projects under section 708 (a) and (c), and for evaluations under section 713. From the amount appropriated under this subsection for any fiscal year, the Assistant Secretary shall reserve $20,000,000 for the purpose of carrying out programs and projects described in section 708(a) (1) through (3).

(2) From the sums appropriated pursuant to subsection (a), the Commissioner shall reserve an amount equal to eight per centum thereof for the purposes of section 708(b).

(c)(1) There are further authorized to be appropriated for the purpose of this title $7,250,000 and such additional sums as may be necessary for fiscal year 1980 and each of the three succeeding fiscal years for providing compensatory services to students who had previously received such services funded in whole or in part under title I of the Elementary and Secondary Education Act of 1965, but who are no longer receiving such services as a result of attendance area or enrollment changes under a plan implemented or ordered after August 21, 1974, which meets the requirements of section 706(a)(1) (A), (B), (C), or (D) for eligibility for assistance under this title.

(2) Funds made available under paragraph (1)—

(A) shall not be used in any manner which would result in the isolation of the students described in such paragraph from other students in the school to which the students so described have been assigned by such plan; and

(B) shall be used to establish compensatory education programs, not less than 30 per centum of the enrollment in which is such other students, except that—

(i) if such school receives funds under provisions of this title other than this subsection, such funds shall be used to provide such services to such other students; or

(ii) if such school does not receive such funds, funds provided under this subsection may be used for such other students, not exceeding 30 per centum of the enrollment in such program.

APPORTIONMENT AMONG STATES

[SEC. 705. (a)(1) From the sums appropriated pursuant to section 704(a) which are not reserved under section 704(b) for any fiscal year, the Assistant Secretary shall apportion to each State for grants and contracts within that State $75,000 plus an amount which bears the same ratio to such sums as to the number of minority group children aged 5–17, inclusive, in that State bears to the number of such children in all States except that the amount apportioned to any State shall not be less than $100,000. The number of such children in each State and in all of the States shall be determined by the Assistant Secretary on the basis of the most recent available data satisfactory to him.

[(2) The Assistant Secretary shall, in accordance with criteria established by regulation, reserve not in excess of 15 per centum of the sums appropriated pursuant to subsection 704(a) for grants to, and contracts with, local, educational agencies in each State pursuant to section 706(b) to be apportioned to each State in accordance with paragraph (1) of this subsection.

[(3) The Assistant Secretary shall reserve 8 per centum of the sums appropriated pursuant to subsection 704(a) for the purpose of section 708(b) to be apportioned to each State in accordance with paragraph (1) of this subsection.

[(b)(1) The amount by which any apportionment to a State for a fiscal year under subsection (a) exceeds the amount which the Assistant Secretary determines will be required for such fiscal year for programs or projects within such State shall be available for reapportionment to other States in proportion to the original apportionments to such States under subsection (a) for that year, but with such proportionate amount for any such State being reduced to the extent it exceeds the sum the Assistant Secretary estimates such State needs and will be able to use for such year; and the total of such reductions shall be similarly reapportioned among the States whose proportionate amounts were not so reduced. Any amounts reapportioned to a State under this subsection during a fiscal year shall be deemed part of its apportionment under subsection (a) for such year.

[(2) In order to afford ample opportunity for all eligible applicants in a State to submit applications for assistance under this title, the Assistant Secretary shall not fix a date for reapportionment, pursuant to this subsection, of any portion of any apportionment to a State for a fiscal year which date is earlier than sixty days prior to the end of such fiscal year.

[(3) Notwithstanding the provisions of paragraph (1) of this subsection, no portion of any apportionment to a State for a fiscal year shall be available for reapportionment pursuant to this subsection unless the Assistant Secretary determines that the applications for assistance under this title which have been filed by eligible applicants in that State for which a portion of such apportionment has not been reserved (but which would necessitate use of that portion) are applications which do not meet the requirements of this title, as set forth in sections 706, 707, and 710, or which set forth programs or projects of such insufficient promise for achieving the purpose of this title stated in section 702(b) that their approval is not warranted.]

Sec. 705. (a) From the sums appropriated pursuant to section 704 (a) for any fiscal year, the Assistant Secretary shall apportion to each State for grants and contracts within the State an amount which bears the same ratio to such sums as the number of minority group children aged five through seventeen, inclusive, in that State bears to the number of such children in all States, except that the amount apportioned to any State shall not be less than $100,000. The number of such children in each State and in all of the States shall be determined by the Assistant Secretary on the basis of the most recently available satisfactory data.

(b)(1) The amount by which any apportionment to a State for a fiscal year under subsection (a) exceeds the amount which the Assistant Secretary determines will be required for that fiscal year for programs and projects within the State shall be available either—

(A) for reapportionment to other States for which the amount so apportioned is insufficient for approvable programs or projects for that fiscal year, or

(B) for special programs and projects under section 708(a), whichever the Assistant Secretary determines will best achieve the purposes of this title. The Assistant Secretary shall distribute any amounts reapportioned among the States pursuant to clause (A) in proportion to the need of eligible applicants in each such State for approvable programs or projects.

(2) The Assistant Secretary shall not fix a date for reapportionment, pursuant to this subsection, of any portion of any apportionment to a State for a fiscal year which date is earlier than one hundred and twenty days prior to the end of such fiscal year.

(3) Notwithstanding the provisions of paragraph (1) of this subsection, no portion of any apportionment to a State for a fiscal year shall be available for reapportionment pursuant to this subsection unless the Assistant Secretary determines that the applications for assistance under this title which have been filed by eligible applicants in that State for which a portion of such apportionment has not been reserved (but which would necessitate use of that portion) are applications which do not meet the requirements of this title, as set forth in sections 706, 707, and 710, or which set forth programs or projects of such insufficient promise for achieving the purposes of this title stated in section 702(b) that their approval is not warranted.

ELIGIBILITY FOR ASSISTANCE

SEC. 706. (a)(1) The Assistant Secretary is authorized to make a grant to, or a contract with, a local educational agency—

(A) which is implementing a plan—

(i) which has been undertaken pursuant to a final order issued by a court of the United States, or a court of any State, or any other State agency or official of competent jurisdiction, and which requires the desegregation of minority group segregated children or faculty in the elementary and secondary schools of such agency, or otherwise requires the elimination or reduction of minority group isolation in such schools *and which may, in addition, require educational activities in minority group isolated schools not affected by the reassignment of children or faculty under the plan in order to remedy the effects of illegal segregation;*

(ii) which has been undertaken pursuant to such an order requiring the actions identified in division (i) and which require any other remedy to improve the overall quality of education in the elementary and secondary schools of such agency; or

[(ii)] *(iii)* which has been approved by the Secretary as adequate under title VI of the Civil Rights Act of 1964 for the desegregation of minority group segregated children or faculty in such schools; or

(B) which, without having been required to do so, has adopted and is implementing, or will, if assistance is made available to it under this title, adopt and implement, a plan for the complete elimination of minority group isolation in all the minority group isolated schools of such agency; or

(C) which has adopted and is implementing, or will, if assistance is made available to it under this Act, adopt and implement, a plan—

(i) to eliminate or reduce minority group isolation in one or more of the minority group isolated schools of such agency,

(ii) to reduce the total number of minority group children who are in minority group isolated schools of such agency, or

(iii) to prevent minority group isolation reasonably likely to occur (in the absence of assistance under this title) in any school in such district in which school at least 20 per centum but not more than 50 per centum, of the enrollment consists of such children, or

(D) which, without having been required to do so, has adopted and is implementing, or will, if assistance is made available to it under this title, adopt and implement a plan to enroll and educate in the schools of such agency children who would not otherwise be eligible for enrollment because of nonresidence in the school district of such agency, where such enrollment would make a significant contribution toward reducing minority group isolation in one or more of the school districts to which such plan relates[; or].

[(E) which will establish or maintain one or more integrated schools as defined in section 720(7) and which—

[(i) has a sufficient number of minority group children to comprise more than 50 per centum of the number of children in attendance at the schools of such agency, and

[(ii) has agreed to apply for an equal amount of assistance under section (b).]

(2)(A) The Assistant Secretary is authorized, in accordance with special eligibility criteria established by regulation for the purposes of this paragraph, to make grants to, and contracts with, local educational agencies for the purposes of section 709(a)(1).

(B) A local educational agency shall be eligible for assistance under this paragraph only if—

(i) such agency is located within, or adjacent to, a Standard Metropolitan Statistical Area;

(ii) the schools of such agency are not attended by minority group children in a significant number or proportion; and

(iii) such local educational agency has made joint arrangements with a local educational agency, located within that Standard Metropolitan Statistical Area, and the schools of which are attended by minority group children in a significant proportion, for the establishment or maintenance of one or more integrated schools as provided in section 720(6).

[(b) The Assistant Secretary is authorized to make grants to, or contracts with, local educational agencies, which are eligible under subsection (a)(1), for unusually promising pilot programs or projects designed to overcome the adverse effects of minority group isolation by improving the academic achievement of children in one or assistance is to be provided, which (1) is at least 15,000, or (2) constitutes more than 50 per centum of the total number of children enrolled in such schools.]

(c) No local educational agency making application under this section shall be eligible to receive a grant or contract in an amount in excess of the amount determined by the Assistant Secretary, in accordance with regulations setting forth criteria established for such purpose, to be the additional cost to the applicant arising out of activities authorized under this title, above that of the activities normally carried out by the local educational agency.

(d) (1) No educational agency shall be eligible for assistance under this title if it has, after the date of enactment of this title—

(A) transferred (directly or indirectly by gift, lease, loan, sale, or other means) real or personal property to, or made any services available to, any transferee which it knew or reasonably should have known to be a nonpublic school or school system (or any organization controlling, or intending to establish, such a school or school system) without prior determination that such nonpublic school or school system (i) is not operated on a racially segregated basis as an alternative for children seeking to avoid attendance in desegregated public schools, and (ii) does not otherwise practice, or permit to be practiced, discrimination on the basis of race, color, or national origin in the operation of any school activity;

(B) had in effect any practice, policy, or procedure which results in the disproportionate demotion or dismissal of instructional or other personnel from minority groups in conjunction with desegregation or the implementation of any plan or the conduct of any activity described in this section, or otherwise engaged in discrimination based upon race, color, or national origin in the hiring, promotion, or assignment of employees of the agency (or other personnel for whom the agency has any administrative responsibility);

(C) in conjunction with desegregation or the conduct of an activity described in this section, had in effect any procedure for the assignment of children to or within classes which results in the separation of minority group from nonminority group children for a substantial portion of the school day, except that this clause does not prohibit the use of bona fide ability grouping by a local education agency as a standard pedagogical practice; or

(D) had in effect any other practice, policy, or procedure, such as limiting curricular or extracurricular activities (or participation therein by children) in order to avoid the participation of minority group children in such activities, which discriminates among children on the basis of race, color, or national origin;

except that, in the case of any local educational agency which is ineligible for asssitance by reason of clause (A), (B), (C), or (D), such agency may make application for a waiver of ineligibility, which application shall specify the reason for its ineligibility, contain such information and assurances as the Secretary shall require by regulation in order to insure that any practice, policy, or procedure, or other activity resulting in the ineligibility has ceased to exist or occur and include such provisions as are necesary to insure that such activities do not reoccur after the submission of the application: *Provided, That the Secretary may, notwithstanding the foregoing, grant such a waiver of ineligibility if the applicant is seeking assistance for activities related to the assignment of employees.*

(2) Applications for waivers under paragraph (1) may be approved only by the Secretary. The Secretary's functions under this paragraph shall, notwithstanding any other provision of law, not be delegated.

(3) Applications for waiver shall be granted by the Secretary upon determination that any practice, policy, procedure or other activity resulting in ineligibility has ceased to exist, and that the applicant has given satisfactory assurance that the activities prohibited in this subsection will not reoccur.

(4) No application for assistance under this title shall be approved prior to a determination by the Secretary that the applicant is not ineligible by reason of this subsection.

(5) All determinations pursuant to this subsection shall be carried out in accordance with criteria and investigative procedures established by regulations of the Secretary for the purpose of compliance with this subsection.

(6) All determinations and waivers pursuant to this subsection shall be in writing. The Committee on Labor and Public Welfare of the Senate and the Committee on Education and Labor of the House of Representatives shall each be given notice of an intention to grant any waiver under this subsection, which notice shall be accompanied by a copy of the proposed waiver for which notice is given and copies of all determinations relating to such waiver. The Assistant Secretary shall not approve an application by a local educational agency which requires a waiver under this subsection prior to 15 days after receipt of the notice required by the preceding sentence by the chairman of the Committee on Labor and Public Welfare of the Senate and the chairman of the Committee on Education and Labor of the House of Representatives.

AUTHORIZED ACTIVITIES

[SEC. 707. (a) Financial assistance under this title (except as provided by sections 708, 709, and 711) shall be available for programs and projects which would not otherwise be funded and which involve activities designed to carry out the purpose of this title stated in section 702(b):

[(1) Remedial services, beyond those provided under the regular school program conducted by the local educational agency, including student to student tutoring, to meet the special needs of children (including gifted and talented children) in schools which are affected by a plan or activity described in section 706 or a program described in section 708, when such services are deemed necessary to the success of such plan, activity, or program.

[(2) The provision of additional professional or other staff members (including staff members specially trained in problems incident to desegregation or the elimination, reduction, or prevention of minority group isolation) and the training and retraining of staff for such schools.

[(3) Recruiting, hiring, and training of teacher aides, provided that in recruiting teacher aides, preference shall be given to parents of children attending schools assisted under this title.

[(4) Inservice teacher training designed to enhance the success of schools assisted under this title through contracts with institutions of higher education, or other institutions, agencies, and organizations individually determined by the Assistant Secretary to have special competence for such purpose.

[(5) Comprehensive guidance, counseling, and other personal services for such children.

[(6) The development and use of new curricula and instructional methods, practices, and techniques (and the acquisition of instructional materials relating thereto) to support a program of instruction for children from all racial, ethnic, and economic backgrounds, including instruction in the language and cultural heritage of minority groups.

[(7) Educational programs using shared facilities for career education and other specialized activities.

[(8) Innovative interracial educational programs or projects involving the joint participation of minority group children and other children attending different schools, including extracurricular activities and cooperative exchanges or other arrangements between schools within the same or different school districts.

[(9) Community activities, including public information efforts, in support of a plan, program, project, or activity described in this title,

[(10) Administrative and auxiliary services to facilitate the success of the program, project, or activity.

[(11) Planning programs, projects, or activities under this title, the evaluation of such programs, projects, or activities, and dissemination of information with respect to such programs, projects, or activities.

[(12) Repair or minor remodeling or alteration of existing school facilities (including the acquisition, installation, modernization, or replacement of instructional equipment) and the lease or purchase of mobile classroom units or other mobile education facilities.

[(13) Planning and design of, and conduct of programs in magnet schools.

[(14) The pairing of schools and programs with specific colleges and universities and with leading businesses.

[(15) The development of plans for neutral site schools.

In the case of programs, projects, or activities involving activities described in paragraph (12), the inclusion of such activities must be found to be a necessary component of, or necessary to facilitate, a program or project involving other activities described in this subsection or subsection (b), and in no case involve an expenditure in excess of 10 per centum of the amount made available to the applicant to carry out the program, project, or activity. The Assistant Secretary shall by regulation define the term "repair or minor remodeling or alteration".

[(b) Sums reserved under section 705(a)(2) with respect to any State shall be available for grants to, and contracts with, local educational agencies in that State making application for assistance under section 706(b) to carry out innovative pilot programs and projects which are specifically designed to assist in overcoming the adverse effects of minority group isolation, by improving the educational achievement of children in minority group isolated schools, including only the activities described in paragraphs (1) through (12) of subsection (a), as they may be used to accomplish such purpose.]

Sec. 707. (a) The Assistant Secretary shall make sums appropriated under section 704(a) for any fiscal year available for programs and projects designed to meet educational needs that arise from the implementation of a plan described in section 706(a). Those programs and projects may include but are not limited to—

(1) the training of school staff and local educational agency staff in the handling of problems incident to the implementation of a qualifying plan;

(2) the provision of additional staff members (including teacher aides) to assist in meeting educational needs that arise from the implementation of the plan;

(3) the development or acquisition of new curricula, methods, practices, techniques, or materials to support a program of instruction for children from all racial, ethnic, and economic backgrounds, including instruction in the language and cultural heritage of minority groups;

(4) innovative educational activities, including extracurricular activities, which involve the joint participation of minority group children and other children;

(5) community relations activities, including public information efforts, in support of the implementation of a qualifying plan;

(6) planning, evaluation, dissemination, and other administrative activities directly related and necessary to other activities in the program or project;

(7) repair or minor remodeling or alteration of existing school facilities (including the acquisition, installation, modernization, or replacement of instructional equipment) and the lease or purchase of mobile classroom units or other mobile education facilities, where necessary to carry out other activities in the program or project;

(8) the provision of compensatory services to children who have received such services under title I of the Elementary and Secondary Education Act of 1965 but who are no longer eligible to receive those services as a result of attendance area changes under a qualifying plan;

(9) activities to prevent or eliminate recurring or continuing problems resulting from the implementation of a qualifying plan;

(10) planning to implement or carry out a plan of desegregation issued by a court of the United States, or a court of any State,

or any other State agency or official of competent jurisdiction, and which requires the desegregation of minority group segregated children or faculty in the elementary and secondary schools of such agency, or otherwise requires the elimination or reduction of minority group isolation in such schools or which has been approved by the Secretary as adequate under title VI of the Civil Rights Act of 1964 for the desegregation of minority group segregated children or faculty in such schools; and

(11) in the case of an applicant implementing a court-ordered desegregation plan under section 706(a)(1)(A)(i), the conduct of educational activities in one or more minority group isolated schools which are not affected by the reassignment of children or faculty under the plan, where the activities have been required by the court to remedy the effects of illegal segregation.

(b) In recruiting and hiring teacher aides to assist in carrying out a program or project under this section, the local educational agency shall give preference to parents of children affected by the implementation of a qualifying plan.

SPECIAL PROGRAMS AND PROJECTS

[SEC. 708. (a)(1) Amounts reserved by the Assistant Secretary pursuant to section 704(b)(2), which are not designated for the purposes of clause (A) or (B) thereof, or for section 713 shall be available to him for grants and contracts under this subsection.

[(2) The Assistant Secretary is authorized to make grants to, and contracts with, State and local educational agencies, and other public agencies and organizations (or a combination of such agencies and organizations) for the purpose of conducting special programs and projects carrying out activities otherwise authorized by this title, which the Assistant Secretary determines will make substantial progress toward achieving the purposes of this title.

[(3) The Assistant Secretary is authorized to make grants to, and contracts with, one or more private, nonprofit agencies, institutions, or organizations, for the conduct, in cooperation with one or more local educational agencies, of special programs for the teaching of standard mathematics to children eligible for services under this Act through instruction advanced mathematics by qualified instructors with bachelor degrees in mathematics, or the mathematical sciences from colleges or other institutions of higher education, or equivalent experience.

[(b)(1) From not more than one-half of the sums reserved pursuant to section 705(a)(3), the Assistant Secretary, in cases in which he finds that it would effectively carry out the purpose of this title stated in section 702(b), may assist by grant or contract any public or private nonprofit agency, institution, or organization (other than a local educational agency) to carry out programs or projects designed to support the development or implementation of a plan, program, or activity described in section 706.

[(2) From the remainder of the sums reserved pursuant to section 705(a)(3), the Assistant Secretary is authorized to make grants to, and contracts with, public and private nonprofit agencies, institutions, and organizations (other than local educational agencies and nonpublic elementary and secondary schools) to carry out programs or projects designed to support the development or implementation of a plan, program, or activity described in section 706.

[(c)(1) The Assistant Secretary shall carry out a program to meet the needs of minority group children who are from an environment in which a dominant language is other than English and who, because of language barriers and cultural differences, do not have equality of educational opportunity. From the amount reserved pursuant to section 704(b)(2)(A), the Assistant Secretary is authorized to make grants to, and contracts with—

[(A) private nonprofit agencies, institutions, and organizations to develop curricula, at the request of one or more educational agencies which are eligible for assistance under section 706, designed to meet the special educational needs of minority group children who are from environments in which a dominant language is other than English, for the development of reading, writing, and speaking skills, in the English language and in the language of their parents or grandparents, and to meet the educational needs of such children and their classmates to understand the history and cultural background of the minority groups of which such children are members;

[(B) local educational agencies eligible for assistance under section 706 for the purpose of engaging in such activities; or

[(C) local educational agencies which are eligible to receive assistance under section 706, for the purpose of carrying out activities authorized under section 707(a) of this title to implement curricula developed under clauses (A) and (B) or curricula otherwise developed which the Assistant Secretary determines meets the purposes stated in clause (A).

In making grants and contracts under this paragraph, the Assistant Secretary shall assure that sufficient funds from the amount reserved pursuant to section 704(b)(2)(A) remain available to provide for grants and contracts under clause (C) of this paragraph for implementation of such curricula as the Assistant Secretary determines meet the purposes stated in clause (A) of this paragraph. In making a grant or contract under clause (C) of this paragraph, the Assistant Secretary shall take whatever action is necessary to assure that the implementation plan includes provisions adequate to insure training of teachers and other ancillary educational personnel.

[(2)(A) In order to be eligible for a grant or contract under this subsection—

[(i) a local educational agency must establish a program or project committee meeting the requirements of subparagraph (B), which will fully participate in the preparation of the application under this subsection and in the implementation of the program or project and join in submitting such application; and

[(ii) a private nonprofit agency, institution, or organization must (I) establish a program or project board of not less than ten members which meets the requirements of subparagraph (B) and which shall exercise policymaking authority with respect to the program or project and (II) have demonstrated to the Assistant Secretary that it has the capacity to obtain the services of adequately trained and qualified staff.

[(B) A program or project committee or board, established pursuant to subparagraph (A), must be broadly representative of parents, school officials, teachers, and interested members of the community or communities to be served, not less than half of the members of which shall be parents and not less than half of the members of which shall be members of the minority group the educational needs of which the program or project is intended to meet.

[(3) All programs or projects assisted under this subsection shall be specifically designed to complement any programs or projects carried out by the local educational agency under section 706. The Assistant Secretary shall insure that programs of Federal financial assistance related to the purposes of this subsection are coordinated and carried out in a manner consistent with the provisions of this subsection, to the extent consistent with other law.]

Sec. 708. (a) From the amount appropriated for any fiscal year under section 704(b), the Assistant Secretary is authorized to make grants to, and contracts with, State and local educational agencies, and other public and nonprofit agencies and organizations (or a combination of such agencies and organizations) for the purpose of carrying out activities which the Assistant Secretary determines will make substantial progress toward achieving the purposes of this title, including, but not limited to—

(1) the planning for, design of, and conduct of programs in magnet schools;

(2) the pairing of schools and programs with institutions of higher education and with businesses;

(3) the development of plans for neutral site schools;

(4) activities designed to meet the needs of minority group children with limited English language skills enrolled in the schools of a local educational agency eligible for assistance under section 706;

(5) the development and production of integrated children's television programs of cognitive and affective educational value, as described in section 711; and

(6) the conduct, in cooperation with one or more local educational agencies, of special programs for the teaching of standard mathematics to children eligible for services under this title through instruction in advanced mathematics by qualified instructors with bachelor degrees in methematics, or the mathematical sciences from colleges or other institutions of higher education, or equivalent experience.

(b) From the sums reserved pursuant to section 704(b)(2), the Assistant Secretary, in cases in which it would effectively carry out the purpose of this title stated in section 702(b), may assist by grant or contract any public or private nonprofit agency, institution, or organization (other than a local educational agency) in any State to carry out programs or projects designed to support the development or implementation of a plan described in section 706(a).

(c)(1) From the amount available for the purposes of this section for each fiscal year, the Assistant Secretary shall carry out a program of making grants to State educational agencies, or other State agencies involved in or responsible for the desegregation of public elementary

and secondary schools, to pay a portion of the cost of State activities related to—

(A) planning (i) for the implementation of voluntary plans to eliminate or reduce minority group isolation in those schools, and (ii) to assess future needs and to develop further strategies to meet those needs;

(B) providing technical assistance to encourage local educational agencies or groups of those agencies to develop or implement voluntary plans to eliminate or reduce minority group isolation in those schools; and

(C) providing training for educational personnel involved in developing or carrying out a voluntary plan to eliminate or reduce minority group isolation in those schools.

(2) The amount of assistance made available to a State under this subsection for any fiscal year shall be twice the amount of State funds expended in the preceding fiscal year for the activities listed in paragraph (1). The amount provided to a State under this section for any fiscal year shall not exceed—

(A) 10 per centum of the amount apportioned to the State for that fiscal year under section 705, or

(B) $500,000,

whichever is greater.

(3) No grant may be made to a State under this subsection unless the application for that grant has been developed in consultation with teachers, educators, parents (including parents of minority group children), and representatives of the general public (including representatives of minority groups), of whom the proportion of minority group individuals shall be approximately the same as the proportion of minority group children enrolled in the elementary and secondary schools in the State.

METROPOLITAN AREA PROJECTS

SEC. 709. (a) Sums available to the Assistant Secretary under section 708 for metropolitan area projects shall be available for the following purposes:

(1) A program of grants to, and contracts with, local educational agencies which are eligible under section 706(a)(2) in order to assist them in establishing and maintaining integrated schools as defined in section 720(6).

(2) A program of any grant to groups of local educational agencies located in a Standard Metropolitan Statistical Area for the joint development of a plan to reduce and eliminate minority group isolation, to the maximum extent possible, in the public elementary and secondary schools in the Standard Metropolitan Statistical Area, which shall, as a minimum, provide that by a date certain, but in no event later than July 1, 1983, the percentage of minority group children enrolled in each school in the Standard Metropolitan Statistical Area shall be at least 50 per centum of the percentage of minority group children enrolled in all the schools in the Standard Metropolitan Statistical Area. No grant may be made under this paragraph unless—

(A) two-thirds or more of the local educational agencies in the Standard Metropolitan Statistical Area have approved the application, and

(B) the number of students in the schools of the local educational agencies which have approved the application constitutes two-thirds or more of the number of students in the schools of all the local educational agencies in the Standard Metropolitan Statistical Area.

(b) In making grants and contracts under this section, the Assistant Secretary shall insure that at least one grant shall be for the purposes of paragraph (2) of subsection (a).

[APPLICATIONS

[SEC. 710. (a) Any local educational agency desiring to receive assistance under this title for any fiscal year shall submit to the Assistant Secretary an application therefor for that fiscal year at such time, in such form, and containing such information as the Assistant Secretary shall require by regulation. Such application, together with all correspondence and other written materials relating thereto, shall be made readily available to the public by the applicant and by the Assistant Secretary. The Assistant Secretary may approve such an application only if he determines that such application—

[(1) in the case of applications under section 706, sets forth a program under which, and such policies and procedures as will assure that, (A) the applicant will use the funds received under this title only for the activities set forth in section 707 and (B) in the case of an application under section 706(b), the applicant will initiate or expand an innovative program specifically designed to meet the educational needs of children attending one or more minority group isolated schools;

[(2) has been developed—

[(A) in open consultation with parents, teachers, and, where applicable, secondary school students, including public hearings at which such persons have had a full opportunity to understand the program for which assistance is being sought and to offer recommendations thereon, and

[(B) except in the case of applications under section 708(c), with the participation of a committee composed of parents of children participating in the program for which assistance is sought, teachers, and, where applicable, secondary school students, of which at least half the members shall be such parents, and at least half shall be persons from minority groups;

[(3) sets forth such policies and procedures as will insure that the program for which assistance is sought will be operated in consultation with, and with the involvement of, parents of the children and representatives of the area to be served, including the committee established for the purposes of clause (2)(B);

[(4) sets forth such policies and procedures, and contains such information, as will insure that funds paid to the applicant under the application will be used solely to pay the additional cost to the applicant in carrying out the plan, program, and activity described in the application;

[(5) contains such assurances and other information as will insure that the program for which assistance is sought will be administered by the applicant, and that any funds received by the applicant, and any property derived therefrom, will remain under the administration and control of the applicant;

[(6) sets forth assurances that the applicant is not reasonably able to provide, out of non-Federal sources, the assistance for which the application is made,

[(7) provides that the plan with respect to which such agency is seeking assistance (as specified in section 706(a)(1)(A) does not involve freedom of choice as a means of desegregation, unless the Assistant Secretary determines that freedom of choice has achieved, or will achieve, the complete elimination of a dual school system in the school district of such agency;

[(8) provides assurances that for each academic year for which assistance is made available to the applicant under this title such agency has taken or is in the process of taking all practicable steps to avail itself of all assistance for which it is eligible under any program administered by the Commissioner;

[(9) provides assurances that such agency will carry out, and comply with, all provisions, terms, and conditions of any plan, program, or activity as described in section 706 or section 708(c) upon which a determination of its eligibility for assistance under this title is based;

[(10) sets forth such policies and procedures, and contains such information, as will insure that funds made available to the applicant (A) under this title will be so used (i) as to supplement and, to the extent practicable, increase the level of funds that would, in the absence of such funds, be made available from non-Federal sources for the purposes of the program for which assistance is sought, and for promoting the integration of the schools of the applicant, and for the education of children participating in such program, and (ii) in no case, as to supplant such funds from non-Federal sources, and (B) under any other law of the United States will, in accordance with standards established by regulation, be used in coordination with such programs to the extent consistent with such other law;

[(11) in the case of an application for assistance under section 706, provides that the program, project, or activity to be assisted will involve an additional expenditure per pupil to be served, determined in accordance with regulations prescribed by the Assistant Secretary, of sufficient magnitude to provide reasonable assurance that the desired funds under this title will not be dispersed in such a way as to undermine their effectiveness;

[(12) provides that (A) to the extent consistent with the number of minority group children in the area to be served who are enrolled in private nonprofit elementary and secondary schools which are operated in a manner free from discrimination on the basis of race, color, or national origin, and which do not serve as alternatives for children seeking to avoid attendance in desegregated or integrated public schools, whose participation would assist in achieving the purpose of this title stated in section 702(b) provides assurance that such agency (after consultation with the appropriate private school officials) has made provision for their participation on an equitable basis, and (B) to the extent consistent with the number of children, teachers, and other educational staff in the school district of such agency enrolled or employed in private nonprofit elementary and secondary schools whose participation would assist in achieving the purpose of this title stated in section 702(b) or, in the case of an application under section 708(c), would assist in meeting the needs described in that subsection, such agency (after consultation with the appropriate private school officials) has made provisions for their participation on an equitable basis;

[(13) provides that the applicant has not reduced its fiscal effort per student or the aggregate expenditure for the provision of free public education for children in attendance at the school of such agency for the fiscal year for which assistance is sought under this title to less than that of the second preceding fiscal year;

[(14) provides that the appropriate State educational agency has been given reasonable opportunity to offer recommendations to the applicant and to submit comments to the Assistant Secretary;

[(15) sets forth effective procedures, including provisions for objective measurement of change in educational achievement and other change to be effected by programs conducted under this title, for the continuing evaluation of programs, projects, or activities under this title, including their effectiveness in achieving clearly stated program goals, their impact on related programs and upon the community served, and their structure and mechanisms for the delivery of services, and including, where appropriate, comparisons with proper control groups composed of persons who have not participated in such programs or projects; and

[(16) provides (A) that the applicant will make periodic reports at such time, in such forms, and containing such information as the Assistant Secretary may require by regulation, which regulation may require at least—

[(i) in the case of reports relating to performance, that the reports be consistent with specific criteria related to the program objectives, and

[(ii) that the reports include information relating to educational achievement of childen in the schools of the applicant,

and (B) that the applicant will keep such records and afford such access thereto as—

[(i) will be necessary to assure the correctness of such reports and to verify them, and

[(ii) will be necessary to assure the public adequate access to such reports and other written materials.

[(b) No application under this section may be approved which is not accompanied by the written comments of a committee established pursuant to clause (2)(B) of subsection (a). The Assistant Secretary shall not approve an application without first affording the committee an opportunity for an informal hearing if the committee requests such a hearing.

[(c) In approving applications submitted under this title (except for those submitted under sections 708 (b) and (c) and 711), the Assistant Secretary shall apply only the following criteria:

[(1) the need for assistance, taking into account such factors as—

[(A) the extent of minority group isolation (including the number of minority group isolated children and the relative concentration of such children) in the school district to be served as compared to other school districts in the State,

[(B) the financial need of such school district as compared to other school districts in the State,

[(C) the expense and difficulty of effectively carrying out a plan or activity described in section 706 or a program described in section 708(a) in such school district as compared to other school districts in the State, and

[(D) the degree to which measurable deficiencies in the quality of public education afforded in such school district exceeded those of other school districts within the State;

[(2) the degree to which the plan or activity described in section 706(a), and the program or project to be assisted, or the program described in section 708(a) are likely to effect a decrease in minority group isolation in minority group isolated schools, or in the case of applications submitted under section 706 (a)(1)(C)(iii) or under section 706(a)(1)(E) the degree to which the plan or activity and the program or project, are likely to prevent minority group isolation from occurring or increasing (in the absence of assistance under this title);

[(3) the extent to which the plan or activity described in section 706 constitutes a comprehensive districtwide approach to the elimination of minority groups isolation, to the maximum extent practicable, in the schools of such school district;

[(4) the degree to which the program, project, of activity to be assisted affords promise of achieving the purpose of this title stated in section 702(b);

[(5) that (except in the case of an application submitted under section 708(a)) the amount necessary to carry out effectively the project or activity does not exceed the amount available for assistance in the State under this title in relation to the other applications from the State pending before him; and

[(6) the degree to which the plan or activity described in section 706 involves to the fullest extent practicable the total educational resources, both public and private, of the community to be served.

[(d)(1) The Assistant Secretary shall not give less favorable consideration to the application of a local educational agency (including an agency currently classified as legally desegregated by the Secretary) which has voluntarily adopted a plan qualified for assistance under this title (due only to the voluntary nature of the action) than to the application of a local educational agency which has been legally required to adopt such a plan.

[(2) The Assistant Secretary shall not finally disapprove in whole or in part any application for funds submitted by a local educational agency without first notifying the local educational agency of the specific reasons for his disapproval and without affording the agency an appropriate opportunity to modify its application.

[(e) The Assistant Secretary may, from time to time, set dates by which applications shall be filed.

[(f) In the case of an application by a combination of local educational agencies for jointly carrying out a program or project under this title, at least one such agency shall be a local educational agency described in section 706(a) or section 708 (a) or (c) and any one or more of such agencies joining in such application may be authorized to administer such program or project.

[(g) No State shall reduce the amount of State aid with respect to the provision of free public education in any school district of any local educational agency within such State because of assistance made or to be made available to such agency under this title.]

APPLICATIONS

Sec. 710. (a) Any local educational agency desiring to receive assistance under this title for a fiscal year shall submit to the Assistant Secretary a notice of intention to do so within thirty days of the beginning of the previous fiscal year. Within thirty days of such submission, the Assistant Secretary shall notify the local educational agency of its eligibility or lack of eligibility for such assistance. If an agency is not eligible, it may apply within ten days for a waiver of ineligibility under section 706(d); and it shall be notified by the Assistant Secretary within twenty days of the approval or disapproval of such waiver. Within thirty days of such notice from the Assistant Secretary for an ineligible agency or within sixty days of notice of approval of eligibility for any other agency, the local educational agency shall submit to the Assistant Secretary an application containing only such information as is deemed necessary to determine approval of its application under this title. Such agency shall be notified by the Assistant Secretary of such approval or disapproval within thirty days of the submission of this application. Such application, together with all correspondence and other written materials relating thereto, shall be made readily available to the public by the applicant and by the Assistant Secretary. The Assistant Secretary may approve an application only upon a determination that such application—

(1) has been developed—

(A) in open consultation with parents, teachers and, where applicable, secondary school students, including at least one public hearing at which such persons have had a full opportunity to understand the program for which assistance is being sought and to offer recommendations thereupon, and

(B) with the participation of a committee composed of parents of children enrolled in the applicant's schools, teach-

ers and, where applicable, secondary school students, of which at least half the members shall be such parents, and at least half shall be persons from minority groups;

(2) sets forth such policies and procedures as will ensure that the program for which assistance is sought will be operated in consultation with, and with the involvement of, parents of the children and representatives of the area to be served, including the committee established for the purposes of clause (2)(B);

(3) sets forth such policies and procedures, and contains such information, as will ensure that funds paid to the applicant under the application will be used solely to pay the additional cost to the applicant in carrying out the program described in the application;

(4) contains such assurances and other information as will ensure that the program for which assistance is sought will be administered by the applicant, and that any funds received by the applicant, and any property derived therefrom, will remain under the administration and control of the applicant;

(5) provides that the plan with respect to which such agency is seeking assistance (as specified in section 706(a)(1)(A)) does not involve freedom of choice as a means of desegregation, unless the Assistant Secretary determines that freedom of choice has achieved, or will achieve, the complete elimination of a dual school system in the school district of such agency;

(6) provides assurances that such agency will carry out, and comply with, all provisions, terms, and conditions of any plan, as described in section 706, upon which a determination of its eligibility for assistance under this title is based;

(7) sets forth such policies and procedures, and contains such information, as will ensure that funds made available to the applicant (A) under this title will be so used (i) as to supplement the level of funds that would, in the absence of such funds, be made available from non-Federal sources for the purposes of the program for which assistance is sought, and for promoting the integration of the schools of the applicant, and for the education of children participating in such program, and (ii) in no case, as to supplant such funds from non-Federal sources, and (B) under any other law of the United States will, in accordance with standards established by regulation, be used in coordination with such programs to the extent consistent with such other law, except that nothing in this clause shall prohibit the use of funds under this title for otherwise authorized activities required under a court-ordered plan described in section 706(a)(1)(A)(i);

(8) provides that (A) to the extent consistent with the number of minority group children in the area to be served who are enrolled in private nonprofit elementary and secondary schools which are operated in a manner free from discrimination on the basis of race, color, or national origin, and which do not serve as alternatives for children seeking to avoid attendance in desegregated or integrated public schools, whose participation would assist in achieving the purpose of this title stated in section 702 (b), provides assurance that such agency (after consultation

with the appropriate private school officials) has made provision for their participation on an equitable basis, and (B) to the extent consistent with the number of children, teachers, and other educational staff in the school district of such agency enrolled or employed in private nonprofit elementary and secondary schools whose participation would assist in achieving the purpose of this title stated in section 702(b), such agency (after consultation with the appropriate private school officials) has made provisions for their participation on an equitable basis;

(9) provides that the applicant has not reduced its fiscal effort per student or the aggregate expenditure for the provision of free public education for children in attendance at the schools of such agency for the fiscal year for which assistance is sought under this title to less than that of the second preceding fiscal year;

(10) provides that the appropriate State educational agency has been given reasonable opportunity to offer recommendations to the applicant and to submit comments to the Assistant Secretary;

(11) sets forth effective procedures, including provisions for objective measurement of change in educational achievement and other change to be effected by programs conducted under this title, for the continuing evaluation of programs under this title, including their effectiveness in achieving clearly stated program goals, their impact on related programs and upon the community served, and their structure and mechanisms for the delivery of services, and including, where appropriate, comparisons with proper control groups composed of persons who have not participated in such programs or projects;

(12) provides (A) that the applicant will make periodic reports at such time, in such form, and containing such information as the Assistant Secretary may prescribe, including, in the case of reports relating to performance, that the reports be consistent with specific criteria related to the program objectives, and (B) that the applicant will keep such records and afford such access thereto as—

(i) will be necessary to ensure the correctness of such reports and to verify them, and

(ii) will be necessary to ensure the public adequate access to such reports and other written materials; and

(13) provides that the applicant, in developing the program or project for which it seeks assistance, has considered the need for compensatory services for children who received those services under title I of the Elementary and Secondary Education Act of 1965, but who are no longer eligible to receive those services as a result of attendance area changes under a qualifying plan.

(b) No application under this section may be approved which is not accompanied by the written comments of a committee established pursuant to clause (2)(B) of subsection (a). The Assistant Secretary shall not approve an application without first affording the committee an opportunity for an informal hearing if the committee requests such a hearing.

(c) In approving applications submitted under this title (except for those submitted under section 708(b) and 713) the Assistant Secretary shall apply the following criteria:

(1) the need for assistance based on the expense or difficulty of effectively carrying out a plan described in section 706(a) and the program or project for which assistance is sought;

(2) the degree to which implementation of the plan described in section 706(a) has effected or will effect a decrease in minority group isolation in minority group isolated schools;

(3) the recentness of the implementation of the plan described in section 706(a);

(4) the degree to which the program or project for which assistance is sought affords promise of achieving the purposes of this title; and

(5) the degree to which the plan described in section 706 involves to the fullest extent practicable the total educational resources, both public and private, of the community to be served.

(d)(1) An application of a local educational agency for assistance under this title may cover a period of from one to five years. A new application shall be required for any assistance under this title for years subsequent to that period. The Assistant Secretary shall base the decision as to the length of time for which an application will be approved on—

(A) the severity of the problems addressed by the program or project for which assistance is being sought;

(B) the nature of the activities proposed in the application;

(C) the likely duration of the problems addressed by the application; and

(D) such other criteria, established by the Assistant Secretary, as will assure the most effective use of this title.

(2) If the Assistant Secretary approves an application of a local educational agency under the title for a period covering more than one fiscal year, no subsequent application shall be required from that agency in any fiscal year during that period unless the agency proposes to carry out, in any such fiscal year, activities not included in the approved application. However, payments to any such agency for any fiscal year subsequent to the first fiscal year for which the application has been approved shall be made only if—

(A) sufficient appropriations are available for making payments in each such subsequent fiscal year; but such payments shall be made prior to any agency approval of funding requests from potential recipients applying subsequent to approved extended period applicants, unless the Assistant Secretary finds that the urgency of needs elsewhere requires a reduction of the level of support for approved extended period applicants;

(B) the Secretary determines that the agency is not ineligible for assistance under section 706(d) in each subsequent fiscal year; and

(C) the agency demonstrates, in accordance with such rules as the Assistant Secretary may prescribe, that satisfactory progress is being made toward achieving the objectives of the program or project for which assistance has been made available under this title.

(e) The Assistant Secretary shall not give less favorable consideration to the application of a State or local educational agency (includ-

ing an agency currently classified as legally desegregated by the Secretary) which has voluntarily adopted a plan qualified for assistance under this title (due only to the voluntary nature of the action) than to the application of a local educational agency which has been legally required to adopt such a plan.

(f) The Assistant Secretary may, from time to time, set dates by which applications shall be filed.

(g) In the case of an application by a combination of local educational agencies for jointly carrying out a program or project under this title, at least one such agency shall be a local educational agency described in section 706(a) and any one or more of such agencies joining in such application may be authorized to administer such program or project.

(h) No State shall reduce the amount of State aid with respect to the provision of free public education in any school district of any local educational agency within such State because of assistance made or to be made available to such agency under this title.

EDUCATIONAL TELEVISION

SEC. 711 [(a) The sums reserved pursuant to section 704(b)(2)(B) for the purpose of carrying out this section shall be available for grants and contracts in accordance with subsection (b).]

[(b)](*a*)(1) The Assistant Secretary shall carry out a program of making grants to, or contracts with, not more than ten public or private nonprofit agencies, institutions, or organizations with the capability of providing expertise in the development of television programing, in sufficient number to assure diversity, to pay the cost of development and production of integrated children's television programs of cognitive and effective educational value.

(2) Television programs developed in whole or in part with assistance provided under this title shall be made reasonably available for transmission, free of charge, and shall not be transmitted under commercial sponsorship.

(3) The Assistant Secretary may approve an application under this section only if he determines that the applicant—

(A) will employ members of minority groups in responsible positions in development, production, and administrative staffs;

(B) will use modern television techniques of research and production; and

(C) has adopted effective procedures for evaluating education and other change achieved by children viewing the program.

(b) Grants and contracts pursuant to subsection (a) may be made from funds available to carry out section 708(a) of this Act.

PAYMENTS

SEC. 712. (a) Upon his approval of an application for assistance under this title, the Assistant Secretary shall reserve from the applicable apportionment (including any applicable reapportionment) available therefor the amount fixed for such application.

(b) The Assistant Secretary shall pay to the applicant such reserved amount, in advance or by way of reimbursement, and in such installments consistent with established practice, as he may determine. *Payments under this title for a fiscal year shall remain available for obligation and expenditure by the recipient until the end of the succeeding fiscal year.*

(c)(1) If a local educational agency in a State is prohibited by law from providing for the participation of children and staff enrolled or employed in private nonprofit elementary and secondary schools as required by paragraph (12) of section 710(a), the Assistant Secretary may waive such requirement with respect to local educational agencies in such State and, upon the approval of an application from a local educational agency within such State, shall arrange for the provision of services to such children enrolled in, or teachers or other educational staff of, any nonprofit private elementary or secondary school located within the school district of such agency if the participation of such children and staff would assist in achieving the purpose of this title stated in section 702(b) [or in the case of an application under section 708(c) would assist in meeting the needs described in that subsection]. The services to be provided through arrangements made by the Assistant Secretary under this paragraph shall be comparable to the services to be provided by such local educational agency under such application. The Assistant Secretary shall pay the cost of such arrangements from such State's allotment or, in the case of an application under section [708(c), from the funds reserved under section 704(b)(2)(A), or in case of an application under section 708(a), from the sums available to the Assistant Secretary under section 704(b)(2) for the purpose of that subsection] *708(a), from the sums available to the Assistant Secretary under section 704(b) for the purpose of such section.*

(2) In determining the amount to be paid pursuant to paragraph (1), the Assistant Secretary shall take into account the number of children and teachers and other educational staff who, except for provisions of State law, might reasonably be expected to participate in the program carried out under this title by such local educational agency.

(3) If the Assistant Secretary determines that a local educational agency has substantially failed to provide for the participation on an equitable basis of children and staff enrolled or employed in private nonprofit elementary and secondary schools as required by paragraph (12) of section 710(a), he shall arrange for the provision of services to children enrolled in, or teachers or other educational staff of, the nonprofit private elementary or secondary school or schools located within the school district of such local educational agency, which services shall, to the maximum extent feasible, be identical with the services which would have been provided such children or staff had the local educational agency carried out such assurance. The Assistant Secretary shall pay the cost of such services from the grant to such local educational agency and shall have the authority for this purpose of recovering from such agency any funds paid to it under such grant.

(d) After making a grant or contract under this title, the Assistant Secretary shall notify the appropriate State educational agency of the name of the approved applicant and of the amount approved.

EVALUATIONS

SEC. 713. [The Assistant Secretary is authorized to reserve not in excess of 1 per centum of the sums appropriated under this title, and reserved pursuant to section 704(b)(2), for any fiscal year for the purposes of this section.] *From the amount appropriated under section 704(b) for any fiscal year, the Assistant Secretary is authorized to reserve for the purpose of this section not to exceed 1 per centum of the amount appropriated under this title for such fiscal year.* From such reservation, the Assistant Secretary is authorized to make grants to, and contracts with, State educational agencies, institutions of higher education and private organizations, institutions, and agencies, including committees established pursuant to section 710(a)(2) for the purpose of evaluating specific programs and projects assisted under this title.

[REPORTS

[SEC. 714. The Assistant Secretary shall make periodic detailed reports concerning his activities in connection with the program authorized by this title and the program carried out with appropriations under the paragraph headed "Emergency School Assistance" in the Office of Education Appropriations Act, 1971 (Public Law 91-380), and the effectiveness of programs and projects assisted under this title in achieving the purpose of this title stated in section 702(b). Such reports shall contain such information as may be necessary to permit adequate evaluation of the program authorized by this title, and shall include application forms, regulations, program guides, and guidelines used in the administration of the program. The report shall be submitted to the President and to the Committee on Labor and Public Welfare of the Senate and the Committee on Education and Labor of the House of Representatives. The first report submitted pursuant to this section shall be submitted no later than ninety days after the enactment of this title. Subsequently reports shall be submitted no less often than two times annually.]

JOINT FUNDING

SEC. 715. Pursuant to regulations prescribed by the President, where funds are advanced under this title, and by one or more other Federal agencies, for any project or activity funded in whole or in part under this title, any one of such Federal agencies may be designated to act for all in administering the funds advanced. In such cases, any such agency may waive any technical grant or contract requirement (as defined by regulations) which is inconsistent with the similar requirements of the administering agency or which the administering agency does not impose. Nothing in this section shall be construed to authorize (1) the use of any funds appropriated under this title for any purpose not authorized herein, (2) a variance of any reservation or apportionment under section 704 or 705, or (3) waiver of any requirement set forth in sections 706 through 711.

[NATIONAL ADVISORY COUNCIL

[SEC. 716. (a) There is hereby established a National Advisory Council on Equality of Educational Opportunity, consisting of fifteen members, at least one-half of whom shall be representative of minority groups, appointed by the President, which shall—

[(1) advise the Assistant Secretary with respect to the operation of the program authorized by this title, including the preparation of regulations and the development of criteria for the approval of applications;

[(2) review the operation of the program (A) with respect to its effectiveness in achieving its purpose as stated in section 702 (b), and (B) with respect to the Assistant Secretary's conduct in the administration of the program;

[(3) meet not less than four times in the period during which the program is authorized, and submit through the Secretary, to the Congress at least two interim reports, which reports shall include a statement of its activities and of any recommendations it may have with respect to the operation of the program; and

[(4) not later than December 1, 1973, submit to the Congress a final report on the operation of the program.

[(b) The Assistant Secretary shall submit an estimate in the same manner provided under section 400(c) and part D of the General Education Provisions Act to the Congress for the appropriations necessary for the Council created by subsection (a) to carry out its functions. Subject to section 448(b) of the General Education Provisions Act, such Council shall continue to exist until September 30, 1979.]

GENERAL PROVISIONS

[SEC. 717. (a) The provisions of parts C and D of of the General Education Provisions Act shall apply to the program of Federal assistance authorized under this title as if such program were an applicable program under such General Education Provisions Act, and the Assistant Secretary shall have the authority vested in the Commissioner of Education by such parts with respect to such program.

[(b) Section 422 of such General Education Provisions Act is amended by inserting "the Emergency School Aid Act;" after "the International Education Act of 1966;".]

Sec. 717. The General Education Provisions Act shall apply to the program of Federal assistance authorized under this title. The Assistant Secretary shall have the authority vested in the Commissioner of Education by that Act with respect to such program.

ATTORNEY FEES

SEC. 718. Upon the entry of a final order by a court of the United States against a local educational agency, a State (or any agency thereof), or the United States (or any agency thereof), for failure to comply with any provision of this title or for discrimination on the basis of race, color, or national origin in violation of title VI of the

Civil Rights Act of 1964, or the fourteenth amendment to the Constitution of the United States as they pertain to elementary and secondary education, the court, in its discretion, upon a finding that the proceedings were necessary to bring about compliance, may allow the prevailing party, other than the United States, a reasonable attorney's fee as part of the costs.

NEIGHBORHOOD SCHOOLS

SEC. 719. Nothing in this title shall be construed as requiring any local educational agency which assigns students to schools on the basis of geographic attendance areas drawn on a racially nondiscriminatory basis to adopt any other method of student assignment.

DEFINITIONS

SEC. 720. Except as otherwise specified, the following definitions shall apply to the terms used in this title:

(1) The term "Assistant Secretary" means the Assistant Secretary of Health, Education, and Welfare for Education.

[(2) The term "current expenditure per pupil" for a local educational agency means (1) the expenditures for free public education, including expenditures for administration, instruction, attendance and health services, pupil transportation services, operation and maintenance of plant, fixed charges, and net expenditures to cover deficits for food services and student body activities, but not including expenditures for community services, capital outlay and debt services, or any expenditure made from funds granted under such Federal program of assistance as the Secretary may prescribe, divided by (2) the number of children in average daily attendance to whom such agency provided free public education during the year for which the computation is made.**]**

[(3)**]** *(2)* The term "elementary school" means a day or residential school which provides elementary education, as determined under State law.

[(4)**]** *(3)* The term "equipment" includes machinery, utilities and built-in equipment and any necessary enclosures or structures to house them, and includes all other items necessary for the provision of educational services, such as instructional equipment and necessary furniture, printed, published, and audiovisual instructional materials, and other related material.

[(5)**]***(4)* The term "institution of higher education" means an educational institution in any State which—

(A) admits as regular students only individuals having a certificate of graduation from a high school, or the recognized equivalent of such a certificate;

(B) is legally authorized within such State to provide a program of education beyond high school;

(C) provides an educational program for which it awards a bachelor's degree; or provides not less than a two-year program which is acceptable for full credit toward such a degree, or offers a two-year program in engineering mathematics, or the physical or biological sciences which is designed to prepare the student to work as a technician and at a semiprofessional level in engineering, scientific, or other technological fields which require the understanding and application of basic engineering, scientific, or mathematical principles or knowledge;

(D) is a public or other nonprofit institution; and

(E) is accredited by a nationally recognized accrediting agency or association listed by the Commissioner for the purposes of this paragraph.

[(6)**]** *(5)* For the purpose of section 706(a)(2) and section 709 (a)(1), the term "integrated school" means a school with an enrollment in which a substantial proportion of the children is from educationally advantaged backgrounds, in which the proportion of minority group children is at least 50 per centum of the proportion of minority group children enrolled in all schools of the local educational agencies within the Standard Metropolitan Statistical Area, and which has a faculty and administrative staff with substantial representation of minority group persons.

[(7) For the purpose of section 706(a)(1)(E), the term "integrated school" means a school with (i) an enrollment in which a substantial proportion of the children is from educationally advantaged backgrounds, and in which the Assistant Secretary determines that the number of nonminority group children constitutes that proportion of the enrollment which will achieve stability, in no event more than 65 per centum thereof, and (ii) a faculty which is representative of the minority group and nonminority group population of the larger community in which it is located, or, wherever the Assistant Secretary determines that the local educational agency concerned is attempting to increase the proportions of minority group teachers, supervisors, and administrators in its employ, a faculty which is representative of the minority group and nonminority group faculty employed by the local educational agency.**]**

[(8)**]** *(6)* The term "local educational agency" means a public board of education or other public authority legally constituted within a State for either administrative control or direction of, public elementary or secondary schools in a city, county, township, school district, or other political subdivision of a State, or a federally recognized Indian reservation, or such combination of school districts, or counties as are recognized in a State as an administrative agency for its public elementary or secondary schools, or a combination of local educational agencies; and includes any other public institution or agency having administrative control and direction of a public elementary or secondary school and where responsibility for the control and direction of the activities in such schools which are to be assisted under this title is vested in an agency subordinate to such a board or other authority, the Assistant Secretary may consider such subordinate agency as a local educational agency for purpose of this title.

[(9)**]** *(7)* The term "magnet school" means a school or education center that offers a special curriculum capable of attracting substantial numbers of students of different racial backgrounds.

[(10) (A) The term "minority group" refers to (i) persons who are Negro, American Indian, Spanish-surnamed American, Portuguese, Oriental, Alaskan natives, and Hawaiian natives and (ii) (except for the purposes of section 705), as determined by the Assistant Secretary, persons who are from environments in which a dominant language is other than English and who, as a result of language barriers and cultural differences, do not have an equal educational opportunity, and (B) the term "Spanish-surnamed American" includes persons of Mexican, Puerto Rican, Cuban, or Spanish origin or ancestry.]

(8) The term "minority group" refers to (A) persons who are American Indians and Alaskan Natives; Asians and Pacific Islanders; blacks, not of Hispanic origin; Hispanics; and Portuguese; and (B) (except for purposes of section 705), as determined by the Commissioner, persons who are from environments in which the dominant language is other than English and who, as a result of language barriers and cultural differences, do not have an equal educational opportunity.

[(11)] *(9)* The terms "minority group isolated school" and "minority group isolation" in reference to a school mean a school and condition, respectively, in which minority group children constitute more than 50 per centum of the enrollment of a school.

[(12)] *(10)* The term "neutral site school" means a school that is located so as to be accessible to substantial numbers of students of different racial backgrounds.

[(13)] *(11)* The term "nonprofit" as applied to a school agency, organization, or institution means a school, agency, organization, or institution owned and operated by one or more nonprofit corporations or associations no part of the net earnings of which inures, or may lawfully inure, to the benefit of any private shareholder or individual.

[(14)] *(12)* The term "secondary school" means a day or residential school which provides secondary education, as determined under State law, except that it does not include any education provided beyond grade 12.

[(15)] *(13)* The term "Standard Metropolitan Statistical Area" means the area in and around a city of fifty thousand inhabitants or more as defined by the Office of Management and Budget.

[(16)] *(14)* The term "State" means one of the fifty States or the District of Columbia, and for purposes of [section 708(a)] *subsections (a) and (b) of section 708*, Puerto Rico, Guam, American Samoa, the Virgin Islands, *the Northern Mariana Islands*, and the Trust Territory of the Pacific Islands shall be deemed to be States.

[(17] *(15)* The term "State educational agency" means the State board of education or other agency or officer primarily responsible for the State supervision of public elementary and secondary schools, or, if there is no such officer or agency, an officer or agency designated by the Governor or by State law for this purpose.

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PUBLIC LAW 874, 81ST CONGRESS

TITLE I—FINANCIAL ASSISTANCE FOR LOCAL EDUCATION AGENCIES IN AREAS AFFECTED BY FEDERAL ACTIVITY

* * * * * * *

FEDERAL ACQUISITION OF REAL PROPERTY

SEC. 2. (a) Where the Commissioner, after consultation with any local educational agency and with the appropriate State educational agency, determines for any fiscal year ending prior to October 1, [1978] *1983*—

(1) that the United States owns Federal property in the school district of such local educational agency, and that such property (A) has been acquired by the United States since 1938, (B) was not acquired by exchange for other Federal property in the school district which the United States owned before 1939, and (C) had an assessed value (determined as of the time or times when so acquired) aggregating 10 per centum or more of the assessed value of all real property in the school district (similarly determined as of the time or times when such Federal property was so acquired); and

(2) that such acquisition has placed a substantial and continuing financial burden on such agency; and

(3) that such agency is not being substantially compensated for the loss in revenue resulting from such acquisition by increases in revenue accruing to the agency from the carrying on of Federal activities with respect to the property so acquired,

then the local educational agency shall be entitled to receive for such fiscal year such amount as, in the judgment of the Commissioner, is equal to the continuing Federal responsibility for the additional financial burden with respect to current expenditures placed on such agency by such acquisition of property. Such amount shall not exceed the amount which, in the judgment of the Commissioner, such agency would have derived in such year, and would have had available for current expenditures, from the property acquired by the United States (such amount to be determined without regard to any improvements or other changes made in or on such property since such acquisition).

* * * * * * *

CHILDREN RESIDING ON, OR WHOSE PARENTS ARE EMPLOYED ON, FEDERAL PROPERTY

Children of Persons Who Reside and Work on Federal Property

SEC. 3. (a) For the purpose of computing the amount to which a local educational agency is entitled under this section for any fiscal year, the Commissioner shall determine the number of children who were in average daily attendance at the schools of such agency, and for whom such agency provided free public education, during such fiscal year, and who, while in attendance at such schools, resided on Federal property and—

(1) did so with a parent employed on Federal property situated (A) in whole or in part in the county in which the school district of such agency is located, or (B) if not in such county, in whole or in part in the same State as the school district of such agency; or

(2) had a parent who was on active duty in the uniformed services (as defined in section 101 of title 37, United States Code).

In making a determination under clause (2) of the preceding sentence with respect to a local educational agency for any fiscal year, the Commissioner shall include the number of children who were in average daily attendance at the schools of such agency, and for whom such agency provided free public education, during such year, and who, while in attendance at such schools, resided on Indian lands, as described in clause (A) of section 403(1).

Children of Persons Who Reside or Work on Federal Property

(b) For the purpose of computing the amount to which a local educational agency is entitled under this section for any fiscal year ending prior to October 1, [1978] *1983*, the Commissioner shall, in addition to any determination made with respect to such agency under subsection (a), determine the number of children (other than children with respect to whom a determination is made for such fiscal year under subsection (a)) who were in average daily attendance at the schools of such agency, and for whom such agency provided free public education, during such fiscal year and who, while in attendance at such schools, either—

(1) resided on Federal property, or

[(2) resided with a parent employed on Federal property situated (A) in whole or in part in the county in which the school district of such agency is located, or (B) if not in such county, in whole or in part in the same State as the school district of such agency, or]

(2) resided with a parent employed on Federal property, or

(3) had a parent who was on active duty in the uniformed services (as defined in section 101 of title 37, United States Code).

For such purpose, with respect to a local educational agency, in the case of any fiscal year ending prior to October 1, 1978, the Commissioner shall also determine the number of children (other than children to whom subsection (a) or the preceding sentence applies) who were in average daily attendance at the schools of such agency and for whom such agency provided free public education, during such fiscal year, and who, while in attendance at such schools resided with a parent who was, at any time during the three-year period immediately preceding the beginning of the fiscal year for which the determination is made, a refugee who meets the requirements of clauses (A) and (B) of section 2(b)(3) of the Migration and Refugee Assistance Act of 1962, except that the Commissioner shall not include in his determination under this sentence for any fiscal year any child with respect to whose education a payment was made under section 2(b)(4) of such Act.

* * * * * * *

Amount of Payments

(d)(1) Except as is provided in paragraph (2), the amount to which a local educational agency shall be entitled under this section for any fiscal year shall be—

(A) in the case of any local educational agency with respect to which the number of children determined for such fiscal year under subsection (a) amounts to at least 25 per centum of the total number of children who were to average daily attendance at the schools of such agency during such fiscal year and for whom such agency provided free public education, an amount equal to 100 per centum of the local contribution rate multiplied by the number of children determined under such subsection plus the sum of the products obtained with respect to such agency under clauses (B)(iii), (B)(iv), (B)(v); and

(B) in any other case, an amount equal to the sum of—

(i) the product obtained by multiplying 100 per centum of the local contribution rate by the number of children determined with respect to such agency for such fiscal year under clause (2) of subsection (a),

(ii) the product obtained by multiplying 90 per centum of the local contribution rate by the number of children determined with respect to such agency for such fiscal year under clause (1) of subsection (a),

(iii) the product obtained by multiplying 50 per centum of the local contribution rate by the number of children determined with respect to such agency for such fiscal year under clause (3) of subsection (b), *and*

(iv) the product obtained by multiplying 45 per centum of the local contribution rate by the number of children determined with respect to such agency for such fiscal year under clauses (1) and (2) **[**(A) of subsection (b), and**]** *of subsection (b)*.

[(v) the product obtained by multiplying 40 per centum of the local contribution rate by the number of children determined with respect to such agency for such fiscal year under clause (2)(B) of subsection (b).**]**

(2)**[**(A) Not later than December 1 during each fiscal year beginning after June 30, 1977, the Commissioner shall, except as is provided in clause (iii) in the third sentence of this subparagraph, determine the total number of children with respect to whom determinations are made under subsection (b) for all local educational agencies making application for payments under this section which meet the eligibility requirements set forth in subsection (c). The Commissioner shall determine the percentage which such number constitutes of the total number of children who were in average daily attendance at the schools of such agencies during such fiscal year and for whom such agencies provided free public education. In calculating the products under clauses (B)(iii), (B)(iv), and (B)(v), of paragraph (1), with respect to any local educational agency for any fiscal year, the Commissioner shall reduce the number of children with respect to whom a determination is made under subsection (b) by a number equal to one-half of the number which the percentage determined under the preceding sentence constitutes of the total number of children with respect to whom such determination is made and who were in average daily attendance at the schools of such agency during such fiscal year and for whom such agency provided free public education, except that—

[(i) such percentage shall not exceed 4 per centum;

[(ii) the number reduced shall not exceed three hundred; and

[(iii) this subparagraph shall not apply to any local educational agency (I) with respect to which the number of children determined under subsection (b) for any fiscal year amounts to at least 10 per centum of the total number of children who were in average daily attendance at the schools of such agency during such fiscal year and for whom such agency provided free public education or (II) during any fiscal year in which such agency receives more than 25 per centum of the funds for its current expenditures from payments under this section.

In determining the total number of children who were in average daily attendance at the schools of an agency during any fiscal year under clause (iii)(I) in the preceding sentence, the number of children in such schools with respect to whom a determination is made under subsection (a) for such year shall not be considered.]

(B) If the Commissioner determines that—

(i) the amount computed under paragraph (1), as is otherwise provided in this subsection with respect to any local educational agency for any fiscal year, together with the funds available to such agency from State and local sources and from other sections of this title, is less than the amount necessary to enable such agency to provide a level of education equivalent to that maintained in the school districts of the State which are generally comparable to the school district of such agency;

(ii) such agency is making a reasonable tax effort and exercising due diligence in availing itself of State and other financial assistance;

(iii) not less than 50 per centum of the total number of children who were in average daily attendance at the schools of such agency during such fiscal year and for whom such agency provided free public education were, during such fiscal year, determined under either subsection (a) or [clause (1) of] subsection (b), or both; and

(iv) the eligibility of such agency under State law for State aid with respect to free public education of children residing on Federal property, and the amount of such aid, are determined on a basis no less favorable to such agency than the basis used in determining the eligibility of local educational agencies for State aid, and the amount thereof, with respect to the free public education of other children in the State;

the Commissioner [is authorized, to] *shall* increase the amount computed under paragraph (1) with respect to such agency for such fiscal year to the extent necessary to enable such agency to provide a level of education equivalent to that maintained in such comparable school districts. The Commissioner shall not, under, the preceding sentence, increase the amount computed under paragraph (1) with respect to any local educational agency for any fiscal year to an amount which exceeds the product of—

(I) the amount the Commissioner determines to be the cost per pupil of providing a level of education maintained in such comparable school districts during such fiscal year,

multiplied by—

(II) the number of children determined with respect to such agency for such year under either subsection (a) or [clause (1) of] subsection (b), or both,

minus the amount of State aid which the Commissioner determines to be available with respect to such children for the fiscal year for which the computation is being made.

(C)(i) The amount of the entitlement of any local educational agency under this section for any fiscal year with respect to handicapped children and children with specific learning disabilities for whom a determination is made under subsection (a)(2) or (b)(3) and for whom such local educational agency is providing a program designed to meet the special educational and related needs of such children shall be the amount determined under paragraph (1) with respect to such children for such fiscal year [multiplied by 150 per centum] *plus the cost of providing such children with a free appropriate public education in accordance with part B of the Education of the Handicapped Act in such agency minus the contribution to such cost made by funds received under such Act.*

(ii) For the purposes of division (i), programs designed to meet the special educational and related needs of such children shall be consistent with criteria established under division (iii).

(iii) The Commissioner shall by regulation establish criteria for assuring that programs (including preschool programs) provided by local educational agencies for children with respect to whom this subparagraph applies are of sufficient size, scope, and quality (taking into consideration the special educational needs of such children) as to give reasonable promise of substantial progress toward meeting those needs, and in the implementation of such regulations the Commissioner shall consult with persons in charge of special education programs for handicapped children in the educational agency of the State in which such local educational agency is located.

(iv) For the purpose of this subparagraph the term "handicapped children" has the same meaning as specified in section 602(1) of the Education of the Handicapped Act and the term "children wih specific learning disabilities" has the same meaning as specified in section 602(15) of such Act.

(D)(i) The amount of the entitlements of any local educational agency under this section for any fiscal year with respect to children who, while in attendance at such agency, resided on Indian lands, as described in clause (A) of section 403(1), shall be the amount determined under paragraph (1) with respect to such children for such fiscal year multiplied by 125 per centum.

(ii) Payments under this subparagraph shall be made only to local educational agencies which have, within one year after the date of enactment of this subparagraph, or, when local educational agencies are formed after such date of enactment, within one year after their

formation, established such policies and procedures with respect to information received from Indian communities as required by this subparagraph and which have made assurances to the Commissioner, at such time and in such manner as shall be determined by regulation, that such policies and procedures have been established. The Commissioner shall have the authority to waive this one-year limit for good cause.

(iii) Each local educational agency shall establish such policies and procedures as are necessary to ensure that (I) Indian children claimed under subsection (a) will participate on an equal basis in the school program with all other children educated by the local educational agency; and (II) parents of Indian children claimed for Indian lands under subsection (a) and tribes having students served by a local educational agency have been consulted and involved in the planning, development, and operation of programs assisted under this application; and (III) parents of Indian children claimed from Indian land under this subparagraph and tribes having students served by a local educational agency have had an opportunity to make recommendations concerning the needs of such children and the ways the parents and tribe can assist the children in realizing the benefits to be derived from the educational programs, as well as to present their views concerning the educational program and parental participation; and (IV) that program plans and evaluations have been adequately disseminated to the parents of Indian children claimed for Indian lands under this subparagraph and to tribes having students served by a local educational agency and that such parties have had an opportunity to present their views with respect to the application.

(iv) (I) Any tribe, or its designee, which has students in attendance in a local educational agency may file a complaint regarding any action of a local educational agency taken pursuant to, or relevant to, the requirements of division (iii) of this subparagraph.

(II) Such complaint shall be filed with the Commissioner, who, upon receipt of such complaint, shall, within ten working days—

(aa) provide written notice to the local educational agency involved;

(bb) designate a time and place for a hearing into matters relating to the complaint in a location convenient to both the tribe and the local educational agency, providing that, unless the Commissioner determines that there is a good cause to the contrary, the hearing location shall be in close proximity to the local educational agency involved; and

(cc) appoint a qualified examiner from outside the Department and office to conduct said hearing.

(III) The hearing shall be held within thirty days of the designation of an examiner and shall be conducted in such a manner that—

(aa) a record of the proceedings is maintained;

(bb) the public is provided an opportunity to attend.

(IV) The complaining tribe, or its designee, shall be entitled to present evidence and testimony in support of its complaint and may make recommendations to the hearing examiner concerning remedial actions which it deemes proper. The local educational agency shall have a similar opportunity to present evidence and testimony and make recom-

mendations. Each party to the hearing shall bear only their own costs in the proceeding.

(V) Within thirty days of the completion of the hearing, the examiner shall make written findings of fact and recommendations regarding what action (if any) should be taken. Such findings and recommendations, along with the hearing record, shall be forwarded to the Commissioner.

(VI) Within thirty days after the Commissioner has received the findings, recommendations, and record, the Commissioner shall review the material and make a determination, in writing, of—

(aa) the appropriate remedial action, if any, to be taken by the local educational agency; and

(bb) the schedule for completion of such action.

The final determination of the Commissioner shall be subject to judicial review.

(VII) In all actions under this division, the Commissioner shall have discretion to consolidate complaints involving the same tribe or local educational agency, wherever possible.

(v) If the local educational agency rejects the determination of the Commissioner or if the remedy required is not undertaken within the time established, and the Commissioner determines that an extension of the time established will not effectively encourage the remedy required, a tribal council having students served by a local educational agency may elect to—

(I) have such educational services provided by a school operated by the Bureau of Indian Affairs, or

(II) operate a school for their own students under the provisions of title I of the Indian Self-Determination and Education Assistance Act, under contract with the Bureau of Indian Affairs.

(vi) The Commissioner, in consultation with the Secretary of the Interior shall, within one year of the date of enactment of this subparagraph, establish regulations to ensure an orderly and expeditious transition in cases where tribes exercise one of the elections described in division (v): Provided, That, in those cases where construction of, or modification of, facilities is necessary, the Bureau of Indian Affairs shall submit the appropriations request for funding and shall specify the need.

(vii) Nothing in division (iv) or (v) shall be deemed to apply to those local educational agencies which have an elected school board a majority of the members of which are Indians.

(viii) This subparagraph is based upon the special relationship between the Indian nations and the United States and nothing in it shall be deemed to relieve any State of any duty with respect to any citizens of that State.

(3)(A) Except as is provided in subparagraph (B), in order to compute the local contribution rate for a local educational agency for any fiscal year, the Commissioner, after consulting with the State educational agency of the State in which the local educational agency is located and with the local educational agency, shall determine which school districts within such State are generally comparable to the school district of the local educational agency for which the computation is being made. The local contribution rate for such agency shall be the quotient of—

(i) the aggregate current expenditures, during the second fiscal year preceding the fiscal year for which the computation is made, which the local educational agencies of such comparable school districts derived from local sources,

divided by—

(ii) the aggregate number of children in average daily attendance for whom such agency provided free public education during such second preceding fiscal year.

(B) (i) The local contribution rate for a local educational agency in any State shall not be less than—

(I) 50 per centum of the average per pupil expenditure in such State, or

(II) 50 per centum of such expenditures in all States,

whichever is greater, except that clause (II) shall not operate in such a manner as to make the local contribution rate for any local educational agency in any State exceed an amount equal to the average per pupil expenditure in such State.

(ii) If the current expenditures in those school districts which the Commissioner has determined to be generally comparable to the school district of the local educational agency for which a computation is made under subparagraph (A) are not reasonably comparable because of unusual geographical factors which affect the current expenditures necessary to maintain, in the school district of such agency, a level of education equivalent to that maintained in such other school districts, the Commissioner is authorized to increase the local contribution rate for such agency by such an amount which he determines will compensate such agency for the increase in current expenditures necessitated by such unusual geographical factors.

(iii) The local contribution rate for any local educational agency in—

(I) Puerto Rico, Wake Island, Guam, American Samoa, or the Virgin Islands, or

(II) any State in which a substantial proportion of the land is in unorganized territory, or

(III) any State in which there is only one local education agency

shall be determined for any fiscal year by the Commissioner in accordance with policies and principles which will best achieve the purposes of this section and which are consistent with the policies and principles provided in this paragraph for determining local contribution rates in States where it is possible to determine generally comparable school districts.

(C) For the purposes of this paragraph—

(i) the term "State" does not include Puerto Rico, Wake Island, Guam, American Samoa, or the Virgin Islands; and

(ii) the "average per pupil expenditure" in a State shall be (I) the aggregate current expenditures, during the second fiscal year preceding the fiscal year for which the computation is made of all local educational agencies in the State, divided by (II) the aggregate number of children in average daily attendance for whom such agencies provide free public education during such second preceding fiscal year.

* * * * * * *

SUDDEN AND SUBSTANTIAL INCREASES IN ATTENDANCE INCREASES HEREAFTER OCCURRING

SEC. 4. (a) If the Commissioner determines for any fiscal year ending prior to October 1, [1978] *1983*—

(1) that, as a direct result of activities of the United States (carried on either directly or through a contractor), an increase in the number of children in average daily attendance at the schools of any local educational agency has occurred in such fiscal year, which increase so resulting from activities of the United States is equal to at least 5 per centum of the difference between the number of children in average daily attendance at the schools of such agency during the preceding fiscal year and the number of such children whose attendance during such year resulted from activities of the United States (including children who resided on Federal property or with a parent employed on Federal property);

* * * * * * *

PAYMENTS

Applications

SEC. 5. (a) * * *

Payments by the Commissioner

(b) (*1*) The Commissioner shall pay to each local educational agency, making application pursuant to subsection (a), the amount to which it is entitled under sections 2, 3, or 4. Sums appropriated, for any fiscal year, to enable the Commissioner to make payments pursuant to this title shall, notwithstanding any other provision of law unless enacted in express limitation of this subsection, remain available for obligation and payments with respect to amounts due local educational agencies under this title for such fiscal year, until the end of the fiscal year succeeding the fiscal year for which such sums are appropriated.

(2) Not later than thirty days after the beginning of any fiscal year the Commissioner shall, on the basis of any application for preliminary payment from any local educational agency which was eligible for a payment during the preceding fiscal year on the basis of entitlements established under section 2 or 3, make such a payment to such agency of not less than 75 per centum of the amount that such agency received during such preceding fiscal year.

Adjustments Where Necessitated by Appropriations

(c) If the sums appropriated for any fiscal year for making payments on the basis of entitlements established under sections 2, 3, and 4 for that year are not sufficient to pay in full the total amounts which the Commissioner estimates all local educational agencies are entitled to receive under such sections for such year, the Commissioner shall allocate such sums among local educational agencies and make payments to such agencies as follows:

(1) He shall first allocate to each local educational agency which is entitled to a payment under section 2 *and section 3(d)(4)* an amount equal to 100 per centum of the amount to which it is entitled as computed under [that] *either such* section for such fiscal year and he shall further allocate to each local educational agency which is entitled to a payment under section 3 an amount equal to 25 per centum of the amount to which it is entitled as computed under section 3(d) for such fiscal year.

(2) From that part of such sums which remains after the allocation required by paragraph (1) for any fiscal year, he shall allocate an additional amount—

[(A) to each local educational agency described in clause (A) of section 3(d)(1) which equals 75 per centum of the amount to which agency is entitled, as compared under section 3(d) with respect to a determination of a number of children under section 3(a), for such fiscal year;]

(A) to each local educational agency—

(i) with respect to which the local contribution rate has been increased under paragraph (2)(B) of section 3(d), which equals 75 per centum of the amount to which such agency is entitled as computed under section 3(d) for such fiscal year; and

(ii) described in clause (A) of section 3(d)(1), which equals 75 per centum of the amount to which such agency is entitled, as computed under section 3(d), with respect to a determination of the number of children under section 3(a) and section 3(b)(3) for such fiscal year;

(B) to each local educational agency which provides free public education for children who reside on Indian land, as described in clause (A) of section 403(1), which equals 75 per centum of the amount to which such agency is entitled under section 3(d)(2)(D)(i);

[(B)] *(C)* to each local educational agency with respect to which a number of children is determined under clause (2) of section 3(a) which equals 65 per centum of the amount to which such agency is entitled on the basis of determining such children, as computed under section 3(d), for such fiscal year;

[(C)] *(D)* to each educational agency with respect to which a number of children is determined under clause (1) of section 3(a) which equals 63 per centum of the amount to which such agency is entitled on the basis of determining such children, as computed under section 3(d), for such fiscal year;

[(D)] *(E)* to each local educational agency with respect to which a number of children is determined under clause (3) of section 3(b) *(other than such children with respect to whom a payment is made under clause (A)(ii) of this paragraph)* which equals 35 per centum of the amount to which such agency is entitled on the basis of determining such children, as computed under section 3(d), for such fiscal year;

[E] *(F)* to each local educational agency with respect to which a number of children is determined under clause (1) and clause (2)(A) of section 3(b) which equals 32 per centum of the amount to which such agency is entitled on the basis of determining such children, as computed under section 3(d) for such fiscal year.

[F] *(G)* to each local educational agency with respect to which a number of children is determined under clause (2)(B) of section 3(b) which equals 28 per centum of the amount to which such agency is entitled on the basis of determining such children, as computed under section 3(d), for such fiscal year.

* * * * * * *

Treatment of Payments by the States in Determining Eligibility for, and the Amount of, State Aid

(d)(1) * * *

(2)(A) Notwithstanding paragraph (1) of this subsection, if a State has in effect a program of State aid for free public education for any fiscal year, which is designed to equalize expenditures for free public education among the local educational agencies of that State, payments under this title for any fiscal year may be taken into consideration by such State in determining the relative—

(i) financial resources available to local educational agencies in that State; and

(ii) financial need of such agencies for the provision of free public education for children served by such agency, provided that a State may consider as local resources funds received under this title only in proportion to the share that local revenues covered under a State equalization program are of total local revenues.

Whenever a State educational agency or local educational agency will be adversely affected by the operation of this subsection, such agency shall be afforded notice and an opportunity for a hearing prior to the reduction or termination of payments pursuant to this subsection.

(B)*(i)* The terms "State aid" and "equalize expenditures" as used in this subsection shall be defined by the Commissioner by regulation, after consultation with State and local educational agencies affected by this subsection, provided that the term "equalize expenditures" shall not be construed in any manner adverse to a program of State aid for free public education which provides for taking into consideration the additional cost of providing free public education for particular groups or categories of pupils meeting the special educational needs of such children as handicapped children, economically disadvantaged, those who need bilingual education, and gifted and talented children.

(ii) In defining the terms required by division (i), the Commissioner—

(I) shall not consider any program to be one of equalizing expenditures if such program permits the average per pupil expenditure by any local educational agency in a State to exceed that of any other local educational agency in that State by more than $100 per pupil, unless such deviation is based upon the additional costs of providing education for particular groups or categories of pupils in meeting the special educational needs of such children as handicapped children, economically disadvantaged children, children who need bilingual education, and gifted and talented children; or represents a choice of level of expenditure per pupil made by the voters of a local educational agency under a statewide school finance law that guarantees equal resources per child for equal tax effort; and

(II) shall not consider any program to be one of equalizing expenditures if such program has been found to be inconsistent with Federal or State law by any Federal or State court until such finding has been reversed upon appeal or until there has been a ruling by a court of appeals that such program is consistent with both such constitutions, which ruling is not subject to appeal.

(C)(i) If a State desires to take payments under this section into consideration as provided in this paragraph for any fiscal year, that State shall, not later than sixty days prior to the beginning of such fiscal year, submit notice to the Commissioner of its intention to do so. Such notice shall be in such form and be accompanied by such information as to enable the Commissioner to determine the extent to which the program of State aid of that State is consistent with the provisions of subparagraph (A). In addition, such notice shall be accompanied by such evidence as the Commissioner finds necessary that each local educational agency in that State has been given notice of the intention of the State. If the Commissioner determines that the program of State aid of a State submitting notice under this subparagraph is consistent with the provisions of subparagraph (A), the Commissioner shall certify such determination to that State.

(ii) Prior to certifying any determination under division (i) for any State for any fiscal year, the Commissioner shall give the local educational agencies in that State an opportunity for a hearing at which such agencies may present their views with respect to the consistency of the State aid program of that State with the provisions of subparagraph (A).

(iii) The Commissioner shall not finally deny to any State for any fiscal year certification of a determination under division (i) without first giving that State an opportunity for a hearing.

[Limitations on Payments with Respect to Children on, or Residing with a Parent Employed on, Federal Property Described in Section 401(1)(c)

[(e)(1) The Commissioner shall determine that part of the entitlement of each local educational agency, for each fiscal year ending prior to October 1, 1978, which is attributable to determinations under subsections (a) and (b) of section 3 of the number of children who resided on, or resided with a parent employed on, property which is described in section 403(1)(C).

[(2) No allocation or payment shall be made under paragraph (2) of subsection (c) with respect to that part of any entitlement of any local educational agency which is determined with respect to such agency for such year under paragraph (1). The limitation in this paragraph shall not operate under the last two sentences of subsection (c) to prevent allocations and payments under such paragraph (2).

[(3) The amount of the payment to any local educational agency which is determined with respect to such agency under paragraph (1) shall be used for special programs and projects designed to meet the special educational needs of educationally derived children from low income families.]

* * * * * * *

(*g*) *Each local educational agency which is adversely affected or aggrieved by any action of the Commissioner under this title shall be entitled to a hearing on, and review of, such action in the same manner as if such agency were a person under the provisions of chapters 5 and 7 of title 5, United States Code.*

CHILDREN FOR WHOM LOCAL AGENCIES ARE UNABLE TO PROVIDE EDUCATION

SEC. 6. (a) In the case of children who reside on Federal property—

(1) if no tax revenues of the State or any political subdivision thereof may be expended for the free public education of such children; or

(2) if it is the judgment of the Commissioner, after he has consulted with the appropriate State educational agency, that no local educational agency is able to provide suitable free public education for such children,

the Commissioner shall make such arrangements (other than arrangements with respect to the acquisition of land, the erection of facilities, interest, or debt service) as may be necessary to provide free public education for such children. Such arrangements to provide free public education may also be made for children of members of the Armed Forces on active duty, if the schools in which free public education is usually provided for such children are made unavailable to them as a result of official action by State or local governmental authority and it is the judgment of the Commissioner, after he has consulted with the appropriate State educational agency, that no local educational agency is able to provide suitable free public education for such children. To the maximum extent practicable, the local educational agency, or the head of the Federal department or agency, with which any arrangement is made under this section shall take such action as may be necessary to insure that the education provided pursuant to such arrangement is comparable to free public education provided for children in comparable communities in the State, or, in the case of education provided under this section outside the continental United States, Alaska, and Hawaii, comparable to free public education provided for children in the District of Columbia. For the purpose of providing such comparable education, personnel may be employed and the compensation, tenure, leave, hours of work, and other incidents of the employment relationship may be fixed without regard to the Civil Service Act and rules (5 U.S.C. 631 et seq.) and the following: (1) the Classification Act of 1949, as amended (5 U.S.C. 1071 et seq.); (2) the Annual and Sick Leave Act of 1951, as amended (5 U.S.C. 2061 et seq.); (3) the Federal Employees' Pay Act of 1945, as amended (5 U.S.C. 901 et seq.); (4) the Veterans' Preference Act of 1944, as amended (5 U.S.C. 851 et seq.); and (5) the Performance Rating Act of 1950, as amended (5 U.S.C. 2001 et seq.). *Personnel provided for under this subsection outside of the continental United States, Alaska, and Hawaii, shall receive such compensation, tenure, leave, hours of work, and other incidents of employment on the same basis as provided for similar positions in the public schools of the District of Columbia.* In any case where education was being provided where education was being provided on January 1, 1955, or thereafter under an arrangement made under this subsection for children residing on an Army, Navy (including the Marine Corps), or Air Force installation, it shall be presumed, for the purposes of this subsection, that no local educational agency is able to provide suitable free public education for the children residing on such installation, until the Commissioner and the Secretary of the military department concerned jointly determine, after consultation with the appropriate State educational agency, that a local educational agency is able to do so.

* * * * * * *

(c) In any case in which the Commissioner makes arrangements under this section for the provision of free public education in facilities situated on Federal property in Puerto Rico, Wake Island, Guam, American Samoa, or the Virgin Islands, he may also make arrangements for providing free public education in such facilities for children residing with a parent employed by the United States [, but only if the Commissioner determines after consultation with the appropriate State educational agency (1) that the provision of such education is appropriate to carry out the purposes of this title, and (2) that no local educational agency is able to provide suitable free public education for such children] *in a grade, position, or classification subject by policy and practice to transfer or reassignment to areas where English is the language of instruction in the schools normally attended by children of Federal employees. In any case where education is being provided under an arrangement made under this subsection, it shall be presumed that no local educational agency is able to provide suitable free public education for the children of eligible parents employed by the United States until the Commissioner determines, after consultation with the appropriate State educational agency, that a local educational agency is able to do so.*

(d) The Commissioner may make an arrangement under this section only with a local educational agency or with the head of a Federal department or agency administering Federal property on which children reside who are to be provided education pursuant to such arrangement or, in the case of children to whom the second sentence of subsection (a) applies, with the head of any Federal department or agency having jurisdiction over the parents of some or all of such children. Except where the Commissioner makes arrangements pursuant to the second sentence of subsection (a), arrangements may be made under this section only for the provision of education in facilities of a local educational agency or in facilities situated on Federal property. *The Commissioner shall ensure that funds provided under such arrangement or arrangements are expended in an efficient manner, and shall require an accounting of funds by such agency at least on an annual basis. The Commissioner shall further be provided with data relating to the quality and type of education provided to such children under such arrangement or arrangements.*

* * * * * * *

(g) The Commissioner shall ensure the establishment of an elective school board in schools assisted under this section. Such school board shall be composed of a minimum of three members, elected by the parents of students in attendance at such school. The Commissioner

shall, by regulation, establish procedures for carrying out such school board elections as provided in this subsection.

(h) A school board established pursuant to subsection (g) shall be empowered to oversee school expenditures and operations, subject to audit procedures established by the Commissioner, and other provisions of this section.

ASSISTANCE FOR CURRENT SCHOOL EXPENDITURES IN CASES OF CERTAIN DISASTERS

SEC. 7. (a) * * *

(d) No payment may be made to any local educational agency under this section except upon application therefor which is submitted through the appropriate State educational agency and is filed with the Commissioner in accordance with the regulations prescribed by him. In determining the order in which such applications shall be approved, the Commissioner shall consider the relative educational and financial needs of the local educational agencies which have submitted approvable applications. *In any case in which the Commissioner does not complete, within sixty days, all action leading to approval or disapproval of an application filed under this section, the Secretary of Health, Education, and Welfare shall assume responsibility for such approval or disapproval of such application and shall complete such action within ninety days of the filing of such application.*

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TITLE IV—GENERAL PROVISIONS

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DEFINITIONS

SEC. 403. For the purposes of this Act—

(1) The term "Federal property" means real property which is owned by the United States or is leased by the United States, and which is not subject to taxation by any State or any political subdivision of a State or by the District of Columbia. Such term includes (A) except for purposes of section 6, real property held in trust by the United States for individual Indians or Indian tribes, and real property held by individual Indians or Indian tribes which is subject to restrictions on alienation imposed by the United States, (B) for one year beyond the end of the fiscal year in which occurred the sale or transfer thereof by the United States, any property considered prior to such sale or transfer to be Federal property for the purposes of this Act, (C) any low-rent housing (whether or not owned by the United States) which is part of a low-rent housing project assisted under the United States Housing Act of 1937, section 516 of the Housing Act of 1949, or part B of title III of the Economic Opportunity Act of 1964, and (D) any school which is providing flight training to members of the Air Force under contractual arrangements with the Department of the Air Force at an airport which is owned by a State or a political subdivision of a State. Such term also includes any inter-

est in Federal property (as defined in the foregoing provisions of this paragraph) under an easement, lease, license, permit, or other arrangement, as well as any improvements of any nature (other than pipelines or utility lines) on such property even though such interests or improvements are subject to taxation by a State or political subdivision of a State or by the District of Columbia. Notwithstanding the foregoing provisions of this paragraph, such term does not include any real property under the jurisdiction of the Post Office Department and used primarily for the provision of postal service.

(2) The term "child" [except as used in title II,] means any child who is within the age limits for which the applicable State provides free public education.

(3) The term "parent" includes a legal guardian or other person standing in loco parentis.

(4) The term "free public education" means education which is provided at public expense, under public supervision and direction, and without tuition charge, and which is provided as elementary or secondary school education in the applicable State[, except that for the purposes of title II such term does not include any education provided beyond grade 12].

(5) The term "current expenditures" means expenditures for free public education, including expenditures for administration, instruction, attendance and health services, pupil transportation services, operation and maintenance of plant, fixed charges, and net expenditures to cover deficits for food services and student body activities, but not including expenditures for community services, capital outlay, and debt service, or any expenditures made from funds granted under [title II of this Act or title II or III] *title I, II, or III* of the Elementary and Secondary Education Act of 1965.

(6)[(A)] For purposes of title I, the term "local educational agency" means a board of education or other legally constituted local school authority having administrative control and direction of free public *elementary and secondary* education *through grade 12* in a county, township, independent, or other school district located within a State. Such term includes any State agency which directly operates and maintains facilities for providing free public education.

[(B) For purposes of title II, the term "local educational agency" means a public board of education or other public authority legally constituted within a State for either administrative control or direction of, or to perform a service function for, public elementary or secondary schools in a city, county, township, school district, or other political subdivision of a State, or such combination of school districts or counties as are recognized in a State as an administrative agency for its public elementary or secondary schools. Such term includes any other public institution or agency having administrative control and direction of a public elementary or secondary school, and it also includes (except for purposes of sections 203(a)(2), 203(b), and 205(a)(1)) any State agency which is directly responsible for providing free public education for handicapped children (including mentally retarded, hard of hearing, deaf, speech impaired, visually

handicapped, seriously emotionally disturbed, crippled, or other health impaired children who by reason thereof require special education) or for children in institutions for neglected or delinquent children.]

(7) The term "State educational agency" means the officer or agency primarily responsible for the State supervision of public elementary and secondary schools.

(8) The term "State" means a State, Puerto Rico, Wake Island, Guam, the District of Columbia, American Samoa, or the Virgin Islands**[, and for purposes of title II, such term includes the Trust Territory of the Pacific Islands]**.

(9) The terms "Commissioner of Education" and "Commissioner" mean the United States Commissioner of Education.

(10) Average daily attendance shall be determined in accordance with State law, except that (A) the average daily attendance of children with respect to whom payment is to be made under section 3 or 4 or this Act shall be determined in accordance with regulations of the Commissioner, and (B) notwithstanding any other provision of this Act, where the local educational agency of the school district in which any child resides makes or contracts to make a tuition payment for the free public education of such child in a school situated in another school district, for purposes of this Act the attendance of such child at such school shall be held and considered (i) to be attendance at a school of the local educational agency so making or contracting to make such tuition payment, and (ii) not to be attendance at a school of the local educational agency receiving such tuition payment or entitled to receive such payment under the contract. *A child shall, for the purposes of section 3, be deemed to be in attendance at a school of a local educational agency if such child is determined to be federally connected under clause (1) or (2) of section 3(a) or under clause (1), (2), or (3) of section 3(b) for any fiscal year and if such child is attending a school other than a school of such agency because such child is handicapped (as defined in section 602(1) of the Education of the Handicapped Act) and if such agency makes a tuition payment on behalf of such child to such school for such fiscal year. Regulations promulgated by the Commissioner in accordance with clause (A) of this paragraph shall permit the conversion of average daily membership to average daily attendance for local educational agencies in States which reimburse local educational agencies based upon average daily membership and which do not require local educational agencies to keep records based on average daily attendance.*

(11) The term "county" means those divisions of a State utilized by the Secretary of Commerce in compiling and reporting data regarding counties.

(12) The term "construction" includes the preparation of drawings and specifications for school facilities; erecting, building, acquiring, altering, remodeling, improving, or extending school facilities; and the inspection and supervision of the construction of school facilities.

(13) The term "school facilities" means classrooms and related facilities (including initial equipment) for free public education and interests in land (including site, grading, and improvements) on which such facilities are constructed, except that such term does not include those gymnasiums and similar facilities intended primarily for exhibitions for which admission is to be charged to the general public.

(14) The term "equipment" includes machinery, utilities, and built-in equipment and any necessary enclosures or structures to house them, and includes all other items necessary for the functioning of a particular facility as a facility for the provision of educational services, including items such as instructional equipment and necessary furniture, printed, published, and audio-visual instructional materials, and books, periodicals, documents, and other related materials.

[(15) For the purpose of title II, the term "elementary school" means a day or residential school which provides elementary education, as determined under State law, and the term "secondary school" means a day or residential school which provides secondary education, as determined under State law, except that it does not include any education provided beyond grade 12.

[(16) For purposes of title II, the "average per pupil expenditure" in a State or in the United States shall be the aggregate current expenditures, during the third fiscal year preceding the fiscal year for which the computation is made (or if satisfactory data for that year are not available at the time of computation, then during the most recent preceding fiscal year for which satisfactory data are available), of all local educational agencies as defined in section 403(6)(B) in the State, or in the United States (which for the purposes of this subsection means the fifty States, and the District of Columbia), as the case may be, plus any direct current expenditures by the State for operation of such agencies (without regard to the source of funds from which either of such expenditures are made), divided by the aggregate number of children in average daily attendance to whom such agencies provided free public education during such preceding year.

[(17) For the purposes of title II, "excess costs" means those costs directly attributable to programs and projects which exceed the average per pupil expenditure of a local educational agency in the most recent year for which satisfactory data are available for pupils in the grade or grades included in such programs or projects; but at the option of a local educational agency, such term need not include expenditures for any comparable State or local special programs for educationally deprived children or expenditures for bilingual programs or special education for handicapped children or children with specific learning disabilities, if such expenditures for bilingual education and special education are used to provide, to children of limited English-speaking ability and handicapped children, and children with specific learning disabilities who reside in title I project areas, services which are comparable to those provided to similarly disadvantaged children residing in nonproject areas.]

SCHOOL CONSTRUCTION IN AREAS AFFECTED BY FEDERAL ACTIVITIES

(P.L. 815, 81st Congress)

AN ACT Relating to the construction of school facilities in areas affected by Federal activities, and for other purposes

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

* * * * * * *

ESTABLISHMENT OF PRIORITIES

SEC. 3. The Commissioner shall from time to time set dates by which applications for payments under this Act with respect to construction projects must be filed, except that the last such date with respect to applications for payments on account of children referred to in paragraph (2) or (3) of section 5(a) shall be not later than September 30, [1978] *1983*. The Commissioner shall by regulation prescribe an order of priority, based on relative urgency of need, to be followed in approving applications in the event the funds appropriated under this Act, and remaining available on any such date for payment to local educational agencies are less than the Federal share of the cost of the projects with respect to which applications have been filed prior to such date (and for which funds under this Act have not already been obligated). Only applications meeting the conditions for approval under this Act (other than section 6(b)(2)(C)) shall be considered applications for purposes of the preceding sentence.

LIMITATIONS ON TOTAL PAYMENTS TO ANY LOCAL EDUCATIONAL AGENCY

SEC. 5. (a) Subject to the limitations in subsections (c) and (d), the total of the payments to a local educational agency under this Act may not exceed the sum of the following:

[(1) the estimated increase, since the base year, in the number of children residing on Federal property, multiplied by 95 per centum of the average per pupil cost of constructing minimum school facilities in the State in which the school district of such agency is situated; and

[(2) the estimated increase, since the base year, in the number of children (A) residing with a parent employed on Federal property (situated in whole or in part in the same State as the school district of such agency or within reasonable commuting distance from such school district), or (B) who had a parent who was on active duty in the uniformed services (as defined in section 102 of the Career Compensation Act of 1949), multiplied by 50 per centum of the average per pupil cost of constructing minimum school facilities in the State in which the school district of such agency is situated; and]

(1) the estimated increase, since the base year, in—

(A) the number of children determined with respect to such agency under section 3(a)(2) of the Act of September 30, 1950, multiplied by 100 per centum of the average per pupil cost of constructing minimum school facilities in the State in which the school district of such agency is situated;

(B) the number of children determined with respect to such agency under section 3(a)(1) of such Act multiplied by 90 per centum of such cost;

(2) the estimated increase, since the base year, in—

(A) the number of children determined with respect to such agency under section 3(b)(3) of such Act multiplied by 50 per centum of such cost; and

(B) the number of children determined with respect to such agency under setcion 3(b)(1) and (2) of such Act multiplied by 45 per centum of such cost;

* * * * *

CHILDREN FOR WHOM LOCAL AGENCIES ARE UNABLE TO PROVIDE EDUCATION

SEC. 10. (a) In the case of children who it is estimated by the Commissioner in any fiscal year will reside on Federal property at the end of the next fiscal year—

(1) if no tax revenues of the State or any political subdivision thereof may be expended for the free public education of such children; or

(2) if it is the judgment of the Commissioner, after he has consulted with the appropriate State educational agency, that no local educational agency is able to provide suitable free public education for such children,

the Commissioner shall make arrangements for constructing, *leasing, renovating, remodeling, or rehabilitating* or otherwise providing the minimum school facilities necessary for the education of such children. In any case in which the Commissioner makes arrangements under this section for constructing, *leasing, renovating, remodeling or rehabilitating* or otherwise providing minimum school facilities situated on Federal property in Puerto Rico, Wake Island, Guam, or the Virgin Islands, he may also include minimum school facilities necessary for the education of children residing with a parent employed by the United States though not residing on Federal property, but only if the Commissioner determines, after consultation with the appropriate State educational agency, (1) that the construction or provision of such facilities is appropriate to carry out the purposes of this Act, (2) that no local educational agency is able to provide suitable free public education for such children, and (3) that English is not the primary language of instruction in schools in the locality. Such arrangements may also be made to provide, on a temporary basis, minimum school facilities for children of members of the Armed Forces on active duty, if the schools in which free public education is usually provided for such children are made unavailable to them as a result of official action by State or local governmental authority and it is the judgment of the Commissioner, after he has consulted with the appropriate State educational agency, that no local educational agency is able to provide suitable free public education for such children. To the maximum extent practicable school facilities provided under this section shall be comparable to minimum school facilities provided for children in comparable communities in the State. This section shall not apply (A) to children who reside on Federal property under the control of the Atomic Energy Commission, and (B) to Indian children attending federally operated Indian schools. Whenever it is necessary for the Commissioner to provide school facilities for children residing on Federal property under this section, the membership of such children may not be included in computing under section 5 the maximum on the total of the payments for any local educational agency.

* * * * * * *

DEFINITIONS

SEC. 15. For the purposes of this Act—

(1) * * *

* * * * * * *

(15) The term "base year" means the third or fourth regular school year preceding the fiscal year in which an application was filed under this Act, as may be designated in the application, except that in the case of an application based on children referred to in paragraph (2) or (3) of section 5(a), the base year shall in no event be later than the regular school year [1973–1974] *1978–1979*; and

* * * * * * *

SCHOOL CONSTRUCTION ASSISTANCE IN CASES OF CERTAIN DISASTERS

SEC. 16. (a) In any case in which—

(1)(A) the Director of the Office of Emergency Planning determines with respect to any local educational agency (including for the purpose of this section any other public agency which operates schools providing technical, vocational, or other special education to children of elementary or secondary school age) that such agency is located in whole or in part within an area which, after August 30, 1965, and prior to October 1, [1978,] *1983*, has suffered a major disaster as the result of any flood, drought, fire, hurricane, earthquake, storm, or other catastrophe which, in the determination of the President pursuant to section 2(a) of the Act of September 30, 1950 (42 U.S.C. 1855a(a)), is or threatens to be of sufficient severity and magnitude to warrant disaster assistance by the Federal Government; or

(B) the Commissioner determines with respect to any such agency that public elementary or secondary school facilities (or, in the case of a public agency other than a local educational agency, school facilities providing technical, vocational, or other special education to children of elementary or secondary school age) of such agency have been destroyed or seriously damaged as a result of flood, hurricane, earthquake, storm, fire, or other catastrophe, except any such catastrophe caused by negligence or malicious action; and

(2) the Governor of the State in which such agency is located has certified the need for disaster assistance under this section, and has given assurance of expenditure of a reasonable amount of the funds of the government of such State, or of any political subdivision thereof, for the same or similiar purposes with respect to such catastrophe;

and if the Commissioner determines with respect to such agency that—

(3) as a result of such major disaster, (A) public elementary or secondary school facilities of such agency (or, in the case of a public agency other than a local educational agency, school facilities providing technical, vocational, or other special education to children of elementary or secondary school age) have been destroyed or seriously damaged, or (B) private elementary or secondary school facilities serving children who reside in the area served by such agency have been destroyed and will not be replaced, thereby increasing the need of such agency for school facilities;

(4) such agency is utilizing or will utilize all State and other financial assistance available for the replacement or restoration of such school facilities;

(5) such agency does not have sufficient funds available to it from State, local, and other Federal sources (including funds available under other provisions of this Act), and from the proceeds of insurance on such school facilities, and requires an amount of additional assistance equal to at least $1,000 or one-half of 1 per centum of such agency's current operating expenditures during the fiscal year preceding the one in which such disaster occurred, whichever is less, to provide the minimum school facilities needed (A) for the restoration or replacement of the school facilities of such agency so destroyed or seriously damaged or (B) to serve, in facilities of such agency, children who but for the destruction of the private facilities referred to in clause (3) (B) would be served by such private facilities; and

(6) in the case of any such major disaster, to the extent that the operation of private elementary and secondary schools in the school attendance area of the local educational agency has been disrupted or impaired by such disaster, such local educational agency has complied with the provisions of section 7(a)(4) of the Act of September 30, 1950 (Public Law 874, Eighty-first Congress), with respect to provisions for the conduct of educational programs under public auspices and administration in which children enrolled in such private elementary and secondary schools may attend and participate,

the Commissioner may provide the additional assistance necessary to enable such agency to provide such facilities, upon such terms and in such amounts (subject to the provisions of this section) as the Commissioner may consider to be in the public interest; but such additional assistance, plus the amount which he determines to be available from State, local, and other Federal sources (including funds available under other provisions of this Act, and from the proceeds of insurance, may not exceed the cost of construction incident to the restoration or replacement of the school facilities destroyed or damaged as a result of the disaster. For the purpose of the preceding sentence, the phrase "cost of construction incident to the restoration or replacement of the school facilities" includes such additional amounts as the Commissioner may approve in order to assure that the facilities, as restored or replaced, will afford appropriate protection against personal injuries resulting from a disaster. [In all cases determined pursuant to clause (1)(B) of this subsection, and in any other case deemed appropriate by the Commissioner, such assistance shall be in the form of a repayable advance subject to such terms and conditions as he considers to be in the public interest.]

* * * * * * *

(c) No payment may be made to any local educational agency under subsection (a) except upon application therefor which is submitted through the appropriate State educational agency and is filed with the Commissioner in accordance with regulations prescribed by him, and which meets the requirements of section 6(b)(1). In determining the order in which such applications shall be approved, the Commissioner shall consider the relative educational and financial needs of the local educational agencies which have submitted aprovable applications. No payment may be made under subsection (a) unless the Commissioner finds, after consultation with the State and local educational agencies, that the project or projects with respect to which it is made are not inconsistent with overall State plans for the construction of school facilities. All determinations made by the Commissioner under this section shall be made only after consultation with the appropriate State educational agency and the local educational agency. *In any case in which the Commissioner does not complete, within sixty days, all action leading to approval or disapproval of an application filed under this section, the Secretary of Health, Education, and Welfare shall assume responsibility for such approval or disapproval of such application and shall complete such action within ninety days of the filing of such application.*

* * * * * * *

NOTE.—Title XII of the bill as reported by the Subcommittee on Elementary and Secondary Education amends sections 302, 306, 308, 309A, and 313 of the Adult Education Act in their entirety. The new text of such sections as amended is contained in the committee print of H.R. 15 as reported.

ELEMENTARY AND SECONDARY EDUCATION AMENDMENTS OF 1966

(P.L. 89-750)

AN ACT To strengthen and improve programs of assistance for elementary and secondary schools and for other purposes.

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That this Act may be cited as the "Elementary and Secondary Education Amendments of 1966".

* * * * * * *

TITLE III—ADULT EDUCATION

SHORT TITLE

SEC. 301. This title may be cited as the "Adult Education Act".

[STATEMENT OF PURPOSE

[SEC. 302. It is the purpose of this title to expand educational opportunity and encourage the establishment of programs of adult public education that will enable all adults to continue their education to at least the level of completion of secondary school and make available the means to secure training that will enable them to become more employable, productive, and responsible citizens.]

STATEMENT OF PURPOSE

SEC. 302. It is the purpose of this title to expand educational opportunities for adults and to encourage the establishment of programs of adult education that will—

(1) enable all adults to acquire basic skills necessary to function in society,

(2) enable adults who so desire to continue their education to at least the level of completion of secondary school, and

(3) make available to adults the means to secure training that will enable them to become more employable, productive, and responsible citizens.

* * * * * * *

DEFINITIONS

SEC. 303. As used in this title—

(a) * * *

(b) The term "adult education" means services or instruction below the college level (as determined by the Commissioner), for adults who—

(1) *lack sufficient mastery of basic educational skills to enable them to function effectively in society or* do not have a certificate of graduation from a school providing secondary education and who have not achieved an equivalent level of education, and

(2) are not currently required to be enrolled in schools.

* * * * * * *

(g) The term "State" includes the District of Columbia, the Commonwealth of Puerto Rico, and (except for the purposes of section 305(a)) Guam, American Samoa, the Trust Territory of the Pacific Islands, *the Northern Mariana Islands*, and the Virgin Islands.

GRANTS TO STATES FOR ADULT EDUCATION

SEC. 304.

[(b)] *(a)* The Commissioner is authorized to make grants to States, which have State plans approved by him under section 306 for the purposes of this section, to pay the Federal share of the cost of (1) the establishment or expansion of adult basic education programs to be carried out by local educational agencies and [private nonprofit agencies] *by public or private nonprofit agencies, organizations, and institutions only if the duly constituted educational agency concurs*, and (2) the establishment or expansion of adult education programs to be carried out by local educational agencies and [private nonprofit agencies] *by public or private nonprofit agencies, organizations, and institutions only if the duly constituted educational agency concurs.*

(b) Not more than 20 per centum of the funds granted to any State under subsection (a) for any fiscal year shall be used for the education of institutionalized individuals.

ALLOTMENT FOR ADULT EDUCATION

SEC. 305. (a) From the sums available for purposes of section 304 (b) for the fiscal year ending June 30, 1972, and for any succeeding fiscal year, the Commissioner shall allot (1) not more than 1 per centum thereof among Guam, American Samoa, the Trust Territory of the Pacific Islands, *the Northern Mariana Islands*, and the Virgin Islands according to their respective needs for assistance under such

section, and (2) $150,000 to each State. From the remainder of such sums he shall allot to each State an amount which bears the same ratio to such remainder as the number of adults who do not have a certificate of graduation from a school providing secondary education (or its equivalent) and who are not currently required to be enrolled in schools in such State bears to the number of such adults in all States. From the sums available for purposes of section 304(b) for the fiscal year ending June 30, 1970, and the succeeding fiscal year, the Commissioner shall make allotments in accordance with section 305(a) of the Adult Education Act of 1966 as in effect on June 30, 1969.

[STATE PLANS

[SEC. 306. (a) Any State desiring to receive its allotment of Federal funds for any grant under this title shall submit through its State educational agency a State plan. Such State plan shall be in such detail as the Commissioner deems necessary, and shall—

[(1) set forth a program for the use of grants, in accordance with section 304(b), which affords assurance of substantial progress with respect to all segments of the adult population, including institutionalized persons, and all areas of the State, toward carrying out the purposes of such section, that not to exceed 20 per centum of the funds used to carry out this Act for any fiscal year may be used for the education of institutionalized persons;

[(2) provide for the administration of such plan by the State educational agency;

[(3) provide for cooperative arrangements between the State educational agency and the State health authority authorizing the use of such health information and services for adults as may be available from such agencies and as may reasonably be necessary to enable them to benefit from the instruction provided pursuant to this title;

[(4) provide for grants to public and private nonprofit agencies for special projects, teacher-training, and research;

[(5) provide for cooperation with Community Action programs, Work Experience programs, VISTA, Work Study, and other programs relating to the antipoverty effort;

[(6) provide for cooperation with manpower development and training programs and occupational education programs, and for coordination of programs carried on under this title with other programs, including reading improvement programs, designed to provide reading instruction for adults carried on by State and local agencies;

[(7) provide that such agency will make available not to exceed 20 per centum of the State's allotment for programs of equivalency for a certificate of graduation from a secondary school;

[(8) provide that such agency will make such reports to the Commissioner, in such form and containing such information, as may reasonably be necessary to enable the Commissioner to perform his duties under this title and will keep such records and afford such access thereto as the Commissioner finds necessary to assure the correctness and verification of such reports;

[(9) provide such fiscal control and fund accounting procedures as may be necessary to assure proper disbursement of and accounting for Federal funds paid the State under this title (including such funds paid by the State to local educational agencies and private nonprofit agencies);

[(10) provide that special emphasis be given to adult basic education programs except where such needs can be shown to have been met in the State;

[(11) provide that special assistance be given to the needs of persons of limited English-speaking ability (as defined in section 703(a) of title VII of the Elementary and Secondary Education Act of 1965), by providing bilingual adult education programs in which instruction is given in English and, to the extent necessary to allow such persons to progress effectively through the adult education program, in the native language of such persons, carried out in coordination with programs of bilingual education assisted under such title VII and bilingual vocational education programs under the Vocational Education Act of 1963; and

[(12) provide such further information and assurances as the Commissioner may by regulation require.

[(b) The Commissioner shall not finally disapprove any State plan submitted under this title, or any modification thereof, without first affording the State educational agency reasonable notice and opportunity for a hearing.]

STATE PLANS

Sec. 306. (a) A State shall be eligible to receive its allotment under section 305 if—

(1) it has on file with the Commissioner a general State application under section 435 of the General Education Provisions Act, and

(2) it has submitted to the Commissioner at such times (not more frequently than once every three years), and in such detail, as the Commissioner shall prescribe a State plan meeting the requirements of subsection (b).

(b) A State plan under this title shall—

(1) set forth a program for the use of funds provided under this title to carry out the purposes stated in section 302 with respect to all segments of the adult population in the State, including residents of rural areas, residents of urban areas with high rates of unemployment, adults with limited English language skills, and institutionalized adults;

(2) provide for the administration of the program by the State educational agency;

(3) describe the procedures the State will use to ensure that in carrying out such program there will be adequate consultation, cooperation and coordination between the State educational agency and State manpower services councils and other agencies, organizations, and institutions in the State which operate employment and training programs or other educational or training programs for adults;

(4) identify (A) the needs of the population of the State for services authorized under this title, (B) the other resources in the

State available to meet those needs, and (C) the goals the State will seek to achieve in meeting those needs over the period covered by the plan;

(*5*) *describe the means by which the delivery of adult education services will be significantly expanded through the use of agencies, institutions, and organizations other than the public school system, such as businesses, labor unions, libraries, institutions of higher education, and community organizations;*

(*6*) *describe the means by which representatives of business and industry, labor unions, public and private educational agencies and institutions, churches, fraternal and voluntary organizations, community organizations, State and local manpower and training agencies, and representatives of special adult populations, including residents of rural areas, residents of urban areas with high rates of unemployment, adults with limited English language skills, and institutionalized adults, and other entities in the State concerned with adults education have been involved in the development of the plan and will continue to be involved in carrying out the plan, especially with regard to the expansion of the delivery of adult education services through those agencies, institutions, and organizations;*

(*7*) *describe the efforts to be undertaken by the State to assist adult participation in adult education programs through flexible course schedules, convenient locations, adequate transportation, and meeting child care needs;*

(*8*) *provide that such agency will make available not to exceed 20 per centum of the State's allotment for programs of equivalency for a certification of graduation from a secondary school;*

(*9*) *provide that special emphasis be given to adult basic education programs except where such needs can be shown to have been met in the State;*

(*10*) *provide that special assistance be given to the needs of persons with limited English language skills (as defined in section 703(a) of title VII of the Elementary and Secondary Education Act of 1965), by providing bilingual adult education programs in which instruction is given in English and, to the extent necessary to allow such persons to progress effectively through the adult education program, in the native language of such persons, carried out in coordination with programs of bilingual education assisted under such title and bilingual vocational education programs under the Vocational Education Act of 1963;*

(*11*) *set forth the criteria by which the State will evaluate the quality of proposals from local agencies, organizations, and institutions; and*

(*12*) *provide such further information and assurances as the Commissioner may by regulation require, including information regarding the extent to which the goals of the program have been achieved during the preceding three years.*

PAYMENTS

SEC. 307. (a) Except as provided in subsection (b), the Federal share of expenditures to carry out a State plan shall be paid from a

State's allotment available for grants to such State. The Federal share [for each State shall be 90 per centum, except that with respect to the Trust Territory of the Pacific Islands, such Federal share shall be 100 per centum] *shall be 90 per centum of the cost of carrying out the State's program, except that with respect to Guam, American Samoa, the Virgin Islands, the Trust Territory of the Pacific Islands, and the Northern Mariana Islands, the Federal share shall be 100 per centum.*

[OPERATION OF STATE PLANS; HEARINGS AND JUDICIAL REVIEW

[SEC. 308. (a) Whenever the Commissioner, after reasonable notice and opportunity for hearing to the State educational agency administering a State plan approved under this title, finds that—

[(1) the State plan has been so changed that it no longer complies with the provisions of section 306, or

[(2) in the administration of the plan there is a failure to comply substantially with any such provision,

the Commissioner shall notify such State agency that no further payments will be made to the State under this title (or, in his discretion, that further payments to the State will be limited to programs under or portions of the State plan not affected by such failure), until he is satisfied that there will no longer be any failure to comply. Until he is so satisfied, no further payments may be made to such State under this title (or payments shall be limited to programs under or portions of the State plan not affected by such failure).

[(b) A State educational agency dissatisfied with a final action of the Commissioner under section 306 or subsection (a) of this section may appeal to the United States court of appeals for the circuit in which the State is located, by filing a petition with such court within sixty days after such final action. A copy of the petition shall be forthwith transmitted by the clerk of the court to the Commissioner or any officer designated by him for that purpose. The Commissioner thereupon shall file in the court the record of the proceedings on which he based his action, as provided in section 2112 of title 28, United States Code. Upon the filing of such petition, the court shall have jurisdiction to affirm the action of the Commissioner or to set it aside, in whole or in part, temporarily or permanently, but until the filing of the record, the Commissioner may modify or set aside his order. The findings of the Commissioner as to the facts, if supported by substantial evidence, shall be conclusive, but the court, for good cause shown, may remand the case to the Commissioner to take further evidence, and the Commissioner may thereupon make new or modified findings of fact and may modify his previous action, and shall file in the court the record of the further proceedings. Such new or modified findings of fact shall likewise be conclusive if supported by substantial evidence. The judgment of the court affirming or setting aside, in whole or part, any action of the Commissioner shall be final, subject to the review by the Supreme Court of the United States upon certiorari or certification as provided in section 1254 of title 28, United States Code. The commencement of proceedings under this subsection shall not, unless so specifically ordered by the court, operate as a stay of the Commissioner's action.]

RESEARCH, DEVELOPMENT, DISSEMINATION, AND EVALUATION

SEC. 308. (a) In addition to the responsibilities of the Director under section 405 of the General Education Provisions Act, the Director of the National Institute of Education shall directly, and through grants and contracts with public and private agencies, institutions and organizations, carry out a program—

(1) to conduct research into problems in adult education;

(2) to develop new and promising approaches and innovative methods which are designed to address those problems and which may have national significance or be of special value in promoting effective programs under this Act, including one-year grants to States to plan for the expansion of their systems for the delivery of adult education services;

(3) to determine, using appropriate objective evaluation criteria, which projects and approaches funded under paragraph (2) and under section 309 of this Act have achieved their stated goals and are capable of achieving comparable levels of effectiveness at additional locations; and

(4) to disseminate throughout the Nation information about those approaches or methods pertaining to adult basic education which are most effective, by—

(A) establishing and operating a clearinghouse on adult education which shall collect, select, and disseminate to the public information pertaining to the education of adults, those approaches and methods of educating adults which are most effective, and ways of coordinating adult education programs with manpower and other education programs; and

(B) utilizing the resources and procedures established by the Commissioner under section 422(a) of the General Education Provisions Act.

(b) The Commissioner shall directly, and through grants and contracts with public and private agencies, institutions and organizations, evaluate the effectiveness of programs conducted under section 304 of this Act.

(c) There are authorized to be appropriated for the purposes of this section $1,500,000 for the fiscal year ending September 30, 1980, $2,000,000 for the fiscal year ending September 30, 1981, and $3,000,000 for each succeeding fiscal year prior to October 1, 1983.

USE OF FUNDS FOR SPECIAL EXPERIMENTAL DEMONSTRATION PROJECTS AND TEACHER TRAINING

SEC. 309. Of the funds allotted to a State under section 305 for a fiscal year, not less than 10 per centum shall be used for—

(1) special projects which will be carried out in furtherance of the purposes of this title, and which—

[(A) involve the use of innovative methods, including methods for educating persons of limited English-speaking ability, systems, materials, or programs which may have national significance or be of special value in promoting effective programs under this title, or]

(*A*) *design, plan, and establish innovative projects for the purpose of serving special populations or meeting special needs identified under section 306*(*b*) (*4*) *of this Act; or*

(B) involve programs of adult education, including education for persons of limited English-speaking ability, which are part of community school programs, carried out in cooperation with other Federal, federally assisted, State, or local programs which have unusual promise in promoting a comprehensive or coordinated approach to the problems of persons with educational deficiencies; and

(2) training persons engaged, or preparing to engage, as personnel in programs designed to carry out the purposes of this title.

* * * * * * *

[CLEARINGHOUSE ON ADULT EDUCATION

[SEC. 309A. The Commissioner shall establish and operate a clearinghouse on adult education, which shall collect and disseminate to the public information pertaining to the education of adults and adult education programs, together with ways of coordinating adult education programs with manpower and other education programs. The Commissioner is authorized to enter into contracts with public agencies or private organizations to operate the clearinghouse established or designated under this section.]

REPORTING

SEC. 309A. The Administrator of the National Center for Education Statistics, in consultation with the Commissioner, shall develop and implement a national adult education data reporting and accounting system, similar to the system authorized for vocational education by section 161 of the Vocational Education Act of 1963.

* * * * * * *

SPECIAL PROJECTS FOR THE ELDERLY

SEC. 310. (a) The Commissioner is authorized to make grants to State and local educational agencies or other public or private nonprofit agencies for programs to further the purpose of this Act by providing educational programs for elderly persons whose ability to speak and read the English language is limited and who live in an area with a culture different than their own. Such programs shall be designed to equip such elderly persons to deal successfully with the practical problems in their everyday life, including the making of purchases, meeting their transportation and housing needs, and complying with governmental requirements such as those for obtaining citizenship, public assistance and social security benefits, and housing.

(b) For the purpose of making grants under this section there are authorized to be appropriated such sums as may be necessary [for the fiscal year ending June 30, 1973, for each succeeding fiscal year ending prior to October 1, 1979, and for the period beginning July 1, 1976 and ending September 30, 1976.] *for each fiscal year ending prior to October 1, 1983.*

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NATIONAL ADVISORY COUNCIL ON ADULT EDUCATION

SEC. 311. (a) * * *

(b) The Council shall consist of fifteen members who shall, to the extent possible, include persons knowledgeable in the field of adult education including education for persons of limited English-speaking ability in which instruction is given in English and, to the extent necessary to allow such persons to progress effectively through the adult education program, in the native language of such persons, State and local public school officials, and other persons having special knowledge and experience, or qualifications with respect to adult education, and persons representative of the general public. The Council shall meet initially at the call of the Commissioner and elect from its number a chairman. The Council will thereafter meet at the call of the chairman, but not less often than twice a year. Subject to section 448(b) of the General Education Provisions Act, the Council shall continue to exist until October 1, [1979.] *1984.*

* * * * * * *

[APPROPRIATIONS AUTHORIZED

[SEC. 313. (a) There are authorized to be appropriated $160,000,000 for the fiscal year ending June 30, 1970, $200,000,000 for the fiscal year ending June 30, 1971, $225,000,000 for each of the fiscal years ending June 30, 1972, and June 30, 1973, $150,000,000 for each of the fiscal years ending June 30, 1974, and June 30, 1975, $175,000,000 for the fiscal year ending June 30, 1976, and $200,000,000 for the fiscal year ending September 30, 1977, and for each of the succeeding fiscal years ending prior to October 1, 1979: *Provided*, That, effective with respect to fiscal years after June 30, 1974, grants to each State under section 305 shall not be less than 90 per centum of the grants made to such State agencies in fiscal year 1973 for the purposes of this title (other than sections 310 and 314).

[(b) There are further authorized to be appropriated for each such fiscal year such sums, not to exceed 5 per centum of the amount appropriated pursuant to subsection (a) of such year, as may be necessary to pay the cost of the administration and development of State plans, and other activities required pursuant to this title. For the fiscal year ending June 30, 1970, and the succeeding fiscal year, nothing in this subsection shall be construed to prohibit the use of any amounts appropriated pursuant to this Act to pay such costs, subject to such limitations as the Commissioner may prescribe.]

APPROPRIATIONS AUTHORIZED

SEC. 313. (a) There are authorized to be appropriated for the purposes of this Act, in addition to any amounts authorized under sections 308 and 310, $200,000,000 for the fiscal year 1979, and for each of the four succeeding fiscal years.

(b) There are further authorized to be appropriated for each such fiscal year such sums, not to exceed 5 per centum of the amount appropriated pursuant to subsection (a) for that year, as may be necessary to pay the cost of the administration and development of State plans,

and other activities required pursuant to this Act. The amount provided to a State under this subsection shall not be less than $50,000 for any fiscal year, except that such amount shall not be less than $25,000 in the case of Guam, American Samoa, the Virgin Islands, the Northern Mariana Islands, and the Trust Territory of the Pacific Islands.

IMPROVEMENT OF EDUCATIONAL OPPORTUNIT[illegible] ADULT INDIANS

SEC. 314. (a) * * *

* * * * * * *

(d) For the purpose of making grants under this section there are hereby authorized to be appropriated $5,000,000 for the fiscal year ending June 30, 1973, and $8,000,000 for each of the succeeding fiscal years ending prior to [July 1, 1978.] *October 1, 1983.*

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GENERAL EDUCATION PROVISIONS ACT

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PART A—EDUCATION DIVISION OF THE DEPARTMENT OF HEALTH, EDUCATION, AND WELFARE

* * * * * * *

NATIONAL INSTITUTE OF EDUCATION

SEC. 405. (a) * * *

* * * * * * *

(k) The Secretary shall wihin ninety days of enactment of the Education Amendments of 1978 (1) publish standards designed to protect the confidentiality of persons in the collection, reporting, and publication of information obtained in the course of Federal educational research, evaluation, and data acquisition activities; and (2) publish proposed regulations under which the Assistant Secretary of Education, the Commissioner of Education, the Director of the National Institute of Education, or the Administrator of the National Center for Educational Statistics, may seek approval for protecting the confidentiality of educational agencies or institutions which voluntarily agree to participate in Federal research or evaluation projects designed to describe the implementation of, or assess the effectiveness of, existing Federal education programs or policies, or designed to help formulate new programs or policies, except that such regulations—

(A) shall not apply to applications, records, evaluations, or reports regularly required from educational agencies or institutions for the management of, or in the formulation of policy related to, Federal education programs;

(B) shall not apply to reports produced as a result of State or Federal monitoring, enforcement, or compliance reviews;

(C) shall not apply to reports, data, and other information collected by the Office for Civil Rights in pursuing its responsibilities;

(D) shall provide specific criteria, including the necessity of confidentiality to assure the reliability of study findings, defining the need for confidentiality against which the request of the Assistant Secretary, the Commissioner, the Director, or the Administrator shall be judged;

(E) shall provide that the requesting education officer of the United States shall simultaneously publish the request, and its justification, and allow a period of thirty days for public comment upon the request before the Secretary may act upon it; and

(F) shall include the general policies of each education officer of the United States regarding procedures to implement the Freedom of Information Act.

NATIONAL CENTER FOR EDUCATION STATISTICS

SEC. 406. (a) * * *

(b) The purpose of the Center shall be to collect and disseminate statistics and other data related to education in the United States and in other nations. The Center shall—

(1) collect, collate, and, from time to time, report full and complete statistics on the conditions of education in the United States;

(2) conduct and publish reports on specialized analyses of the meaning and significance of such statistics;

(3) assist State and local educational agencies, *including State agencies responsible for postsecondary education*, in improving and automating their statistical and data collection activities;

(4) review and report on educational activities in foreign countries; and

(5) conduct a continuing survey of institutions of higher education and local educational agencies to determine the demand for, and the availability of, qualified teachers and administrative personnel, especially in critical areas within education which are developing or are likely to develop, and assess the extent to which programs administered in the Education Division are helping to meet the needs identified as a result of such continuing survey.

* * * * * * *

[(g) (1) (A) In order to eliminate excessive detail and unnecessary or redundant information requests, the Secretary and the Commissioner shall, in accordance with the provision of this subsection, coordinate the collection of information and data acquisition activities of the Education Division and the Office for Civil Rights.

[(B) For the purpose of this subsection, the term—

[(i) "information" has the meaning given it by section 3502 of title 44, United States Code; and

[(ii) "educational agency or institution" means any public or private agency or institution which is the recipient of funds under any applicable program, including any preschool program.

[(C) The Commissioner shall establish and provide staff personnel to operate information collection and data acquisition review and coordination procedures to be directed by the Administrator for the National Center for Education Statistics. The procedures shall be designed to review proposed collection of information and data acquisition activities in order to advise the Commissioner and the Secretary with respect to whether such activities are excessive in detail or unnecessary or redundant.

[(2)(A) The Administrator shall assist each bureau or agency directly responsible for an applicable program, and the Office for Civil Rights, in performing the coordination required by this subsection, and shall require of each such bureau, agency, and office—

[(i) a detailed justification of how information once collected will be used; and

[(ii) an estimate of the man-hours required by each educational agency or institution to complete the requests.

[(B) Each educational agency or institution subject to a request under the collection of information and data acquisition activity and their representative organizations shall have an opportunity, during the 30-day period before the transmittal of the request to the Director of the Office of Management and Budget, to comment to the Administrator on the collection of information and data acquisition activity.

[(C) Nothing in this subsection shall be construed to interfere with the enforcement of the provisions of the Civil Rights Act of 1964 or any other nondiscrimination provisions of Federal law.

[(3) The Administrator shall, insofar as practicable, and in accordance with the provisions of this title, provide educational agencies and institutions with summaries of the information collected and the data acquired by the Education Division and the Office for Civil Rights.

[(4) The Administrator shall, insofar as practicable, develop a common set of definitions and terms after consultation with the head of each bureau or agency directly responsible for the administration of an applicable program.

[(5) The Commissioner shall prepare as part of the annual report to the Congress provisions relating to the progress made by the Secretary, the Commissioner, and the Administrator in meeting the objectives of this subsection and make to the Congress whatever legislative recommendations necessary for meeting the objectives.]

(g)(1)(A)(i) In order to eliminate excessive detail and unnecessary and redundant information requests and to achieve the collection of information in the most efficient and effective possible manner, the Secretary and the Assistant Secretary shall, in accordance with the provisions of this subsection, coordinate through the National Center the collection of information and data acquisition activities of all Federal agencies, (I) whenever such activities request information from educational agencies or institutions, or (II) whenever the purpose of such activities is to request information needed for the management of or the formulation of policy related to Federal education programs.

(ii)(I) There is hereby established, in the National Center, a unit for education data management. This unit shall be headed by an Assistant Administrator for Data Management who shall be placed in grade 17 of the General Schedule under section 5332 of title 5, United States Code. The function of such unit shall be to assist the Administrator in performing the duties prescribed in this subsection, and the Assistant Secretary shall assign sufficient staff to such unit to perform such function.

(II) There is hereby established a Federal Education Data Acquisition Council, to consist of members appointed by the Secretary who shall represent the public and the major agencies which collect and use education data, including one representative each of the Office of Management and Budget and the Office of Federal Statistical Policy and Standards. The members representing the public may be appointed for not more than three years. The Council shall advise and assist the Administrator with respect to the improvement, development, and coordination of Federal education information and data acquisition activities, shall review the policies, practices, and procedures of the Educaton Data Management Unit, and shall hear appeals from the decisions of the Administrator if the head of an aggrieved agency seeks to make such an appeal. In the case of any such appeal, the Council shall conduct an impartial hearing and shall render a final decision. The Council shall meet regularly during the year and shall be headed by an individual from an agency which has expertise in data collection but which undertakes no major data collection of education data.

(B) For the purposes of this subsection, the term—

(i) "information" has the meaning given it by section 3502 of title 44, United States Code;

(ii) "Federal agency" has the meaning given it by section 3502 of the same title; and

(iii) "educational agency or institution" means any public or private agency or institution offering educational programs.

(C)(i) The National Center, through the education data management unit, shall review and coordinate all collection of information and data acquisition activities described in paragraph (1)(A)(i) of this subsection in accordance with procedures to be established by the Administrator, with the approval of the Secretary and the Assistant Secretary. Such procedures shall be designed in order to enable the Administrator to determine whether proposed collection of information and data acquisition activities are excessive in detail, unnecessary, redundant, ineffective, or excessively costly, and if so, to advise the heads of the relevant Federal agencies and to withhold approval of such proposed activities.

(ii) No collection of information or data acquisition activity subject to such procedures shall be subject to any other review, coordination, or approval procedure outside of the relevant Federal agency except as hereinafter provided. The Administrator shall inform the Director of the Office of Management and Budget of all proposed collection of information and data acquisition activities subject to such procedures within a sufficient time in order to meet the notice deadline for comment prescribed by clause (C). If, within ten days of such notice, the Director indicates to the Administrator that a significant data acquisition policy issue is involved in any such collection of information or data acquisition activity, such activity shall be reviewable in accordance with the rules and regulations established pursuant to section 3509 of title 44, United States Code.

(iii) The procedures established by the Administrator shall include a review of plans for evaluations and for research when such plans are in their preliminary stages in order to give advice to the heads of Federal agencies regarding the data acquisition aspects of such plans.

(2)(A) The Administrator shall assist each Federal agency in performing the review and coordination required by this subsection and shall require of each agency a plan for each collection of information and data acquisition activity which shall include—

(i) a detailed justification of how information once collected will be used;

(ii) the methods of analysis which will be applied to such data;

(iii) the timetable for the dissemination of the collected data; and

(iv) an estimate of the man-hours required by each educational agency or institution to complete the requests and by Federal agencies to process the information, based upon previous experience with similar data or upon a sample of respondents.

(B) In performing the review and coordination required by this subsection the Administrator shall assure that—

(i) no information or data will be requested of any educational agency or institution unless that request has been approved and publicly announced by the January 1 immediately preceding the beginning of the new school year unless there is an urgent need for this information or a very unusual circumstance exists regarding it, but this restriction shall not apply in the case of research and evaluation studies which are mandated by Congress;

(ii) sampling techniques, instead of universal responses, will be used wherever possible with a special consideration being given to the burden being placed upon small schools districts, colleges, and other educational agencies and institutions;

(iii) no change will be made in the information or data request after it has been initially approved under this subsection unless the change goes through the same approval process; and

(iv) no request for information or data will be approved if such information or data exists in the same or a similar form in the automated indexing system required to be developed pursuant to paragraph (4).

(C) Each educational agency or institution subject to a request under the collection of information and data acquisition activity, and their representative organizations, shall have an opportunity, during a thirty-day period before approval by the Administrator, to comment to the Administrator on the collection of information and data acquisition activity. The exact data instrument for each proposed activity shall be available to the public upon request during such comment period.

(D) Nothing in this subsection shall be construed to interfere with the enforcement of the provisions of the Civil Rights Act of 1964 or any other nondiscrimination provision of Federal law.

(3) The Administrator shall, insofar as practicable, and in accordance with the provisions of this Act, provide educational agencies and institutions and other Federal agencies, pursuant to the requirement of subsection (f)(2)(A), with summaries of information collected and the data acquired by Federal agencies unless such data were acquired on a confidential basis.

(4) The Administrator shall, insofar as practicable—

(A) develop standard definitions and terms to be used by all Federal agencies in dealing with education related information and data acquisition requests;

(B) develop an automated indexing system for cataloging all available data;

(C) establish uniform reporting dates among Federal agencies for the information and data acquisitions required after review under this section;

(D) publish annually a listing of Federal agencies and summaries of the amount of data requests resulting from each such agency and, for the programs administered in the Education Division, publish a listing annually of each such program with its appropriation and with the data burden resulting from such program; and

(E) require the Federal agency proposing the collection of information or data acquisition activity to identify in its data instrument the legislative authority specifically requiring such collection, if any, and require the responding educational agency or institution to make the same identification if it in turn collects such information or data from other agencies or individuals.

(5) The Assistant Secretary shall submit a report to the Congress not less than once every three years, describing the implementation of this subsection. Such report shall contain recommendations for amendments to Federal laws which in the opinion of the Administrator and Assistant Secretary are imposing undue burdens on educational agencies and institutions, and such recommendations shall not be subject to any review by any Federal agency outside the Education Division.

(6)(A) The Administrator is authorized to make grants from sums appropriated pursuant to this subsection to State educational agencies, including State agencies responsible for postsecondary education, for the development or improvement of their computer data systems.

(B) Any State educational agency is eligible for a grant of funds under this subsection subject to the following conditions:

(i) the agency agrees to use such funds for the development or improvement of its management information system and agrees to coordinate all data collection for Federal programs administered by the agency through such a system;

(ii) the agency agrees to provide funds to local educational agencies and institutions of higher education for the development or improvement of management information systems when such grants are deemed necessary by the State educational agency; and

(iii) the State agency agrees to take specific steps, in cooperation with the Administrator and with local educational agencies or institutions of higher education in the State, as appropriate, to eliminate excessive detail and unnecessary and redundant information requests within the State and to achieve the collection of information in the most efficient and effective possible manner so as to avoid imposing undue burdens on local educational agencies or institutions of higher education.

(7) For the purpose of carrying out this subsection—

(A) there are authorized to be appropriated for salaries and expenses $600,000 for the fiscal year ending September 30, 1979, $1,000,000 for the fiscal year ending September 30, 1980, and $1,200,000 for each of the fiscal years ending September 30, 1981, 1982, and 1983;

(B) there are authorized to be appropriated for grants under paragraph (6) the sums of $5,000,000 for the fiscal year ending September 30, 1979, $25,000,000 for the fiscal year ending September 30, 1980, and $50,000,000 for each of the fiscal years ending September 30, 1981, 1982, and 1983; and

(C) the sums appropriated according to subparagraphs (A) and (B) shall be appropriated as separate line items.

(h)(1) The amount available for salaries and expenses of the Center shall not exceed $5,000,000 for the fiscal year ending June 30, 1975, $10,000,000 for the fiscal year ending June 30, 1976, and $14,000,000 for each of the fiscal years ending prior to October 1, [1978] *1983.*

(2) The amount available for grant and contracts by the Assistant Secretary under subsection (e) shall not exceed $20,000,000 for the fiscal year ending June 30, 1975, $25,000,000 for the fiscal year ending June 30, 1976, and $30,000,000 for each of the fiscal years ending prior to October 1, [1978.] *1983.*

(3) Sums appropriated for activities and expenses of the Center which are not limited by paragraph (2) of this subsection shall be appropriated apart from appropriations which are so limited, as separate line items.

(i)(1) In addition to its other responsibilities the National Center for Education Statistics shall, in consultation with the Office of Education, collect uniform data from the States on financing of elementary and secondary education. Each State receiving funds under the Elementary and Secondary Education Act of 1965 shall cooperate with the National Center in this effort.

(2)(A) The National Center shall, in consultation with the Office of Education, publish by no later than September 30, 1979, and by no later than September 30 of each fiscal year thereafter, a composite profile of each State showing the degree to which each has achieved equalization of resources for elementary and secondary education among the school districts within the State. A summary of these profiles shall show this equalization among the States.

(B) In compiling these profiles, the National Center shall list the degree of equalization both within and among the States according to the following standards:

(i) the disparity in expenditures among school districts;

(ii) the disparity from wealth neutrality; and

(iii) such other measures as the National Center considers appropriate, including a consideration of price differentials and pupil-teacher ratios.

(3) There are authorized to be appropriated such sums as may be necessary for any fiscal year to assist the National Center in carrying out its responsibilities under this subsection.

RESPONSIBILITY OF STATES TO FURNISH INFORMATION

SEC. [437] *406A.* (a) The [Commissioner] *Administrator of the National Center for Educational Statistics* shall require that each State submit to him, within ninety days after the end of any fiscal year, a report on the uses of Federal funds in that State under any applicable program for which the State is responsible for administration. Such report shall—

(1) list all grants and contracts made under such program to the local educational agencies and other public and private agencies and institutions within such State during such year;

(2) include the total amount of funds available to the State under each such program for such fiscal year and specify from which appropriation Act or Acts these funds were available;

(3) with respect to the second preceding fiscal year, include a compilation of reports from local educational agencies and other public and private agencies and institutions within such State which sets forth the amount of such Federal funds received by each such agency and the purposes for which such funds were expended;

(4) with respect to such second preceding fiscal year, include a statistical report on the individual served or affected by programs, projects, or activities assisted with such Federal funds; and

(5) be made readily available by the State to local educational agencies and other public and private agencies and institutions within the State, and to the public.

(b) On or before March 31 of each year, the Commissioner shall submit to the Committee on Labor and Public Welfare of the Senate and to the Committee on Education and Labor of the House of Representatives an analysis of these reports and a compilation of statistical data derived therefrom.

* * * * * * *

GENERAL AUTHORITY OF ADMINISTRATIVE HEADS OF EDUCATION AGENCIES

SEC. 408. (a) Each administrative head of an education agency, in order to carry out functions otherwise vested in him by law *or by delegation of authority pursuant to law*, is, subject to limitations as may be otherwise imposed by law, authorized—

(1) to make, promulgate, issue, rescind, and amend rules and regulations governing [the manner of operation of] *the applicable programs administered by* the agency of which he is head;

* * * * * * *

(c) For the purposes of this [section] *title*, the term "administrative head of an education agency" means the Commissioner and the Director of the National Institute of Education. To the extent that the Assistant Secretary is directly responsible for the administration of a program and to the extent that the Assistant Secretary is responsible for the supervision of the National Center for Education Statistics, the Assistant Secretary shall, for such purposes, be considered within the meaning of such term.

PAYMENTS

SEC. [435] *409.* Payments pursuant to grants or contracts under any applicable program may be made in installments, and in advance or by way of reimbursement, with necessary adjustments on account of overpayments or underpayments, as the Commissioner may determine.

PART B—APPROPRIATIONS AND EVALUATIONS

Subpart I—Appropriations

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AVAILABILITY OF APPROPRIATIONS ON ACADEMIC OR SCHOOL YEAR BASIS

SEC. 412. (a) Appropriations for any fiscal year for grants, loans, contracts, or other payments to educational agencies or institutions under any applicable program may, in accordance with regulations of the Secretary, be made available for expenditure by the agency or institution concerned on the basis of an academic or school year differing from such fiscal year.

(b) *(1)* Notwithstanding any other provision of law, unless enacted in specific limitation of the provisions of this subsection, any funds from appropriations to carry out any programs to which this title is applicable during any fiscal year, [ending prior to October 1, 1979,] which are not obligated and expended by educational agencies or institutions prior to the beginning of the fiscal year succeeding the fiscal year for which such funds were appropriated shall remain available for obligation and expenditure by such agencies and institutions during such succeeding fiscal year.

(2) Any funds under any applicable program which, pursuant to paragraph (1), are available for obligation and expenditure in the year succeeding the fiscal year for which they were appropriated shall be obligated and expended in accordance with—

(A) the Federal statutory and regulatory provisions relating to such program which are in effect for such succeeding fiscal year, and

(B) any program plan or application submitted by such educational agencies or institutions for such program for such succeeding fiscal year.

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PART C—GENERAL REQUIREMENTS AND CONDITIONS CONCERNING THE OPERATION AND ADMINISTRATION OF EDUCATION PROGRAMS; GENERAL AUTHORITY OF THE COMMISSIONER OF EDUCATION

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SUBPART 1—GENERAL AUTHORITY

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REVIEW OF APPLICATIONS

SEC. 425. (a) In the case of any applicable program under which financial assistance is provided to (or through) a State educational agency to be expended in accordance with a State plan approved by the Commissioner, and in the case of the program provided for in title I of the Elementary and Secondary Education Act of 1965, *and in the case of national reading and mathematics improvement programs provided for in part A of title VI of the Elementary and Secondary Education Act of 1965*, any applicant or recipient aggrieved by the final action of the State educational agency, and alleging a violation of State or Federal law; rules, regulations, or guidelines governing the applicable program; in (1) disapproving or failing to approve its application or program in whole or part, (2) failing to provide funds in amounts in accord with the requirements of laws and regulations, [or

(3)] (*3*) *ordering, in accordance with a final State audit resolution determination, the repayment of misspent or misapplied Federal funds, or* (*4*) terminating further assistance for an approved program, may within thirty days request a hearing. Within thirty days after it receives such a request, the State educational agency shall hold a hearing on the record and shall review such final action. No later than ten days after the hearing the State educational agency shall issue its written ruling, including reasons therefor. If it determines such final action was contrary to Federal or State law, or the rules, regulations, and guidelines, governing such applicable program it shall rescind such final action.

TECHNICAL ASSISTANCE

SEC. 426. (a) For the purpose of carrying out more effectively Federal education programs, the Commissioner is authorized, upon request, to provide advice, counsel, and technical assistance to State educational agencies, institutions of higher education, and, with the approval of the appropriate State educational agency, elementary and secondary schools—

(1) in determining benefits available to them under Federal law;

(2) in preparing applications for, and meeting requirements of applicable programs;

(3) in order to enhance the quality, increase the depth, or broaden the scope of activities under applicable programs; and

(4) in order to encourage simplification of applications, reports, evaluations, and other administrative procedures.

(b) The Commissioner shall permit local educational agencies to use organized and systematic approaches in determining cost allocation, collection, measurement, and reporting under any applicable program, if he determines (1) that the use of such approaches will not in any manner lessen the effectiveness and impact of such program in achieving purposes for which it is intended, (2) that the agency will use such procedures as will insure adequate evaluation of each of the programs involved, and (3) that such approaches are consistent with criteria prescribed by the Comptroller General of the United States for the purposes of audit. For the purpose of this subsection a cost is allocable to a particular cost objective to the extent of relative benefits received by such objective.

(*c*) *In awarding contracts and grants for the development of curricula or related material, the Commissioner and the Director of the National Institute of Education shall—*

(*1*) *encourage applicants to ensure that the curricula or materials will be developed in a manner conducive to later dissemination through ongoing consultations with publishers and others experienced in such dissemination;*

(*2*) *permit applicants to include provisions for reasonable consultation fees; and*

(*3*) *ensure that contracts for publication and dissemination of the curricula or materials are awarded competitively to those public and private organizations which can best assure that the curricula and materials will reach the target populations for which they were developed.*

[(c)**]** (*d*) The Commissioner's annual report shall contain a statement of the Commissioner's activities under this section.

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EQUALIZATION ASSISTANCE

Sec. 426A. (a) The Commissioner is authorized from the sums appropriated pursuant to subsection (d) to make grants to States to assist in developing and implementing plans to revise their systems of financing elementary and secondary education in order to achieve a greater equalization of resources among school districts. Any State desiring to receive such a grant shall (1) submit an application approved by the State legislature for these funds, (2) provide that State funds will match the Federal funds on a dollar for dollar basis, and (3) show how these efforts build upon the knowledge gained through the plans developed pursuant to section 842 of the Education Amendments of 1974.

(b) The Commissioner is authorized from sums appropriated pursuant to subsection (d) to (1) develop and disseminate models and materials useful to the States in planning and implementing revisions of their school financing systems and (2) establishing temporary national and regional training centers to assist those involved in school finance to provide the level of expertise needed by the States in revising their financing systems.

(c) The Commissioner shall (1) designate a unit within the Office of Education to serve as a national dissemination center for information on the State's efforts to achieve a greater equalization of resources for elementary and secondary education, and (2) develop an analysis of what has been learned through the use of funds available under section 842 of the Education Amendments of 1974 and disseminate the results of this analysis.

(d) There are hereby authorized to be appropriated $4,000,000 for each of the fiscal years ending prior to September 30, 1983, for the purposes of this section.

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SUBPART 2—ADMINISTRATION: REQUIREMENTS AND LIMITATIONS

APPLICATIONS

Sec. 430. (a) Notwithstanding any other provision of law, unless expressly in limitation of the provisions of this section, the Commissioner is authorized to provide for the submission of applications for assistance effective for two fiscal years under any applicable program with whatever amendments to such applications being required as the Commissioner determines essential.

(b) The Commissioner shall, insofar as is practicable, establish uniform dates during the year for the submission of applications under all applicable programs and for the approval of such applications.

(c) The Commissioner shall, insofar as is practicable, develop and require the use of—

(1) a common application for grants to local educational agencies in applicable programs administered by State educational

agencies in which the funds are distributed to such local agencies pursuant to some objective formula, and such application shall be used as the single application for as many of these programs as is practicable;

(2) a common application for grants to local educational agencies in applicable programs administered by State educational agencies in which the funds are distributed to such local agencies on a competitive or discretionary basis, and such application shall be used as the single application for as many of such programs as is practicable; and

(3) a common application for grants to local educational agencies in applicable programs which are directly administered by the Commissioner, and such application shall be used as the single application for as many of these programs as is practicable.

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[MAINTENANCE OF EFFORT DETERMINATION

[SEC. 431A. (a)(1) In prescribing regulations for carrying out the requirements of section 403(a)(11) of the Elementary and Secondary Education Act of 1965 and section 307(b) of the Adult Education Act, the Commissioner shall—

[(A) determine the amount so expended on the basis of per pupil or aggregate expenditures;

[(B) prescribe that the requirement for each such section is met for any fiscal year for which notification is given under subparagraph (C) if, for such year, the fiscal effort per student or the amount expended is not less than the allowable percentage reduction for that agency from its fiscal effort per student or the amount expended by that agency in its base year; and

[(C) requires that each agency intending to use the provisions of this section shall notify the Commissioner.

[(2) For purposes of paragraph (1)(B) of this subsection—

[(A) an agency's base year for the period in which such paragraph is effective shall be the fiscal year determined by that agency to be such base year in the first fiscal year for which such notification is given by that agency, except that such base year so determined shall be—

[(i) the fiscal year preceding such fiscal year for which notification is given; or

[(ii) the second fiscal year preceding such year of notification; and

[(B) an agency's allowable percentage reduction for any fiscal year shall be a percentage reduction from the fiscal effort per student or the amount expended in its base year determined by that agency which, when added to the sum of any such percentage reductions previously determined by that agency for purposes of paragraph (1)(B), does not exceed 5 percent.

[(b)(1)(A) In any case in which exceptional circumstances exist, the Commissioner may, in accordance with the provisions of this subparagraph, waive, for any fiscal year, the requirement of section 403(a)(11) of the Elementary and Secondary Education Act of

1965, of section 307(b) of the Adult Education Act, and of this section, if he determines such waiver to be equitable in order to reflect such circumstances, including those resulting from decreasing enrollments or fiscal resources of the relevant local educational agency, or the State, or both. In any case in which a waiver under this subparagraph is granted, the Commissioner shall reduce the amount of the Federal payment for the current fiscal year in the exact proportion to which the fiscal effort per student or the amount expended was less than 100 percent for the second preceding fiscal year as required by section 403(a)(11) of the Elementary and Secondary Education Act of 1965, and by section 307(b) of the Adult Education Act.

[(B) In any case in which very exceptional circumstances exist, the Commissioner may waive, for any fiscal year, the requirement of section 403(a)(11) of the Elementary and Secondary Education Act of 1965, of section 307(b) of the Adult Education Act, and of this section, if he determines such waiver to be equitable in order to reflect such circumstances, including those resulting from decreasing enrollments or fiscal resources of the relevant local educational agency, or the State, or both.

[(2)(A) In any case in which exceptional circumstances exist with respect to a local educational agency, the Commissioner may, in accordance with the provisions of this subparagraph, waive, for one fiscal year only with respect to such local educational agency, the requirement of section 143(c)(2) of the Elementary and Secondary Education Act of 1965 if he determines such waiver to be equitable in order to reflect such circumstances, including those resulting from decreasing enrollments or fiscal resources of the relevant local educational agency or the State, or both. In any case in which a waiver under this subparagraph is granted, the Commissioner shall, for one fiscal year only, reduce the amount of the Federal payment for the current fiscal year in the exact proportion to which the fiscal effort per student of that agency or the amount expended by that agency was less than 100 percent for the second preceding fiscal year as required by section 143(c)(2) of the Elementary and Secondary Education Act of 1965.

[(B) In any case in which very exceptional circumstances exist with respect to a local educational agency, the Commissioner may waive for one fiscal year only, with respect to such local educational agency the requirement of section 143(c)(2) of the Elementary and Secondary Education Act of 1965 if he determines such waiver to be equitable in order to reflect such circumstances, including those from decreasing enrollments or fiscal resources of such local educational agency.

[(3) The Commissioner shall establish objective criteria of general applicability to carry out the waiver authority contained in this subsection.

[(c) This section shall be effective with respect to each requirement to which it applies, during the period which begins on the date of the enactment of the Education Amendment of 1976, and ends on the date of termination of the program to which the requirement applies. For purposes of the preceding sentence, a program shall be considered to terminate on September 30 of the fiscal year, if any, during which such program is automatically extended pursuant to section 414 of the General Education Provisions Act.]

MAINTENANCE OF EFFORT DETERMINATION

Sec. 431A. (a) In prescribing regulations for carrying out the requirements of section 403(a)(10) of the Elementary and Secondary Education Act of 1965 and section 307(b) of the Adult Education Act, the Commissioner shall determine the amount so expended on the basis of per pupil or aggregate expenditures.

(b) The Commissioner may waive, for one fiscal year only, the requirements of this section if he determines that such a waiver would be equitable due to exceptional and unforeseen circumstances such as a natural disaster or a precipitous and unforeseen decline in the financial resources of the local educational agency. In any case in which a waiver under this subsection is granted, the Commissioner shall reduce the amount of the Federal payment for the program affected for the current fiscal year in the exact proportion to which the amount expended (either on an average per pupil or aggregate basis) was less than the amount required by section 403(a)(10) of the Elementary and Secondary Education Act of 1965 or section 307(b) of the Adult Education Act. No level of funding permitted under such a waiver may be used as the basis for computing the fiscal effort required, under such sections, for years subsequent to the year covered by such waiver; such fiscal effort shall be computed on the basis of the level of funding which would, but for such waiver, have been required.

(c) The Commissioner shall establish objective criteria of general applicability to carry out the waiver authority contained in this subsection.

(d) This section shall be effective with respect to each requirement to which it applies, during the period which begins on the date of the enactment of the Education Amendments of 1978, and ends on the date of termination of the program to which the requirement applies. For purposes of the preceding sentence, a program shall be considered to terminate on September 30 of the fiscal year, if any, during which such program is automatically extended pursuant to section 414 of the General Education Provisions Act.

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[ADMINISTRATION OF EDUCATION PROGRAMS AND PROJECTS

[Sec. 434. (a)(1) Each recipient of Federal funds under any applicable program through any grant, subgrant, contract, subcontract, loan, or other arrangement entered into (other than by formal advertising) shall keep such records as the Assistant Secretary shall prescribe, including records which fully disclose the amount and disposition by such recipient of the proceeds of such assistance, the total cost of the project or undertaking in connection with which such funds are given or used, the amount of that portion of the cost of the project or undertaking supplied by other sources, and such other records as will facilitate an effective audit.

[(2) The Secretary and the Comptroller General of the United States, or any of their duly authorized representatives, shall, until the expiration of five years after the completion of the project or undertaking to which reference is made in paragraph (1), have access, for the purpose of audit and examination, to any books, documents, papers, and records of such recipients which, in the opinion of the Comptroller General, after consultation with the Assistant Secretary, may be related, or pertinent to, the grants, subgrants, contracts, subcontracts, loans, or other arrangement to which reference is made in paragraph (1).

[(b)(1)(A) In the case of any State which applies, contracts, or submits a plan, for participation in any applicable program in which Federal funds are made available for assistance to local educational agencies through, or under the supervision of the State educational agency of that State, such State shall submit to, and maintain on file with, the Commissioner a general application meeting the requirements of this subsection. The provisions of the preceding sentence shall also apply in the case of a State or other jurisdiction in which there is only one local educational agency or in which the State educational agency is also the only local educational agency. Such general application shall (i) provide for the submission by the State and approval by the Commissioner of an annual program plan with respect to the particular programs in which the State desires to participate and (ii) provide assurances—

[(I) that the State will, through its State educational agency, provide for such methods of administration as are necessary for the proper and efficient administration of the programs to which the general application applies;

[(II) that the State will make provision for such fiscal control and fund accounting procedures as may be necessary to assure proper disbursement of, and accounting for, Federal funds paid to the States under any applicable program;

[(III) that the State will make provision for making such reports as the Commissioner may require to carry out his functions;

[(IV) that the State will follow such policies and use such methods and practices of administration as will insure that non-Federal funds will not be supplanted by Federal funds; and

[(V) that the State will submit to, and have approved by, the Commissioner an annual program plan in accordance with subparagraph (B).

[(B) The annual program plan submitted by any State for any fiscal year with respect to any program to which this paragraph applies shall—

[(i) be prepared and administered in a manner consistent with specific State plan requirements of the appropriate applicable statutes affecting the program for which the annual program plan is applicable;

[(ii) set forth a statement describing the purposes for which Federal funds will be expended during the fiscal year for which the annual program plan is submitted; and

[(iii) comply in all other respects with the specific requirements of the appropriate applicable statutes.

[(2) In accordance with determinations and regulations of the Commissioner, the requirements of paragraph (1) shall be in lieu of comparable requirements for State plans in applicable statutes authorizing appropriations for programs to which paragraph (1) applies.

[(3) In the case of any application for assistance under any applicable program to which paragraph (1) does not apply and with respect to which the Commissioner determines that this section would simplify the administration of an applicable program, each such application shall be submitted to the Commissioner at such time, in such manner, and containing such information as the Commissioner shall prescribe by regulation and, as a precondition for approval, shall—

[(A) provide for such methods of administration as are necessary for the proper and efficient administration of the program or project for which application is made;

[(B) make provision for such fiscal control and fund accounting procedures as may be necessary to assure proper disbursement of, and accounting for, Federal funds paid to the applicant under the application; and

[(C) provide for making such reports as the Commissioner may require to carry out his functions.

[(c) Whenever the Commissioner, after reasonable notice and an opportunity for hearing, finds that there has been a failure, by any recipient of funds under any applicable program, to comply substantially with the terms to which such recipient has agreed in order to receive such funds, the Commissioner shall notify such recipient that further payments will not be made to such recipient under that program until he is satisfied that such recipient no longer fails to comply with such terms. Until the Commissioner is so satisfied, no further payments shall be made to such recipient. Pending the outcome of any termination proceeding initiated under this paragraph, the Commissioner may suspend payments to such recipient, after such recipient has been given reasonable notice and opportunity to show cause why such action should not be taken.

[(d) (1) If any State has submitted an application for funds under any applicable program under which appropriations for such program are, by the applicable statute, allotted or apportioned among the States or under which the State (or local educational agencies in that State) is entitled to a portion of an appropriation therefor and the Commissioner disapproves such application, or if the Commissioner withholds payments to a State under paragraph (1) of subsection (c), that State shall be entitled to judicial review of the actions of the Commissioner in accordance with the provisions of this paragraph.

[(2) (A) If any State, under circumstances qualifying for judicial review under this paragraph, desires judicial review of the Commission's action, such State may, within sixty days of such action, file with the United States Court of Appeals for the circuit in which such State is located a petition for review of such action. A copy of the petition shall be forthwith transmitted by the clerk of the court to the Commissioner. The Commissioner thereupon shall file in the court the record of the proceedings on which he based the action brought under this division, as provided in section 2112 of title 28, United States Code.

[(B) The findings of fact by the Commissioner, if supported by substantial evidence, shall be conclusive; but the court, for good cause shown, may remand the case to the Commissioner to take further evidence, and the Commissioner may thereupon make new or modified findings of fact and may modify his previous action, and shall certify to the court the record of the further proceedings. Such new or modified findings of fact shall likewise be conclusive if supported by substantial evidence.

[(C) The court shall have jurisdiction to affirm the action of the Commissioner or to set it aside, in whole or in part. The judgment of the court shall be subject to review by the Supreme Court of the United States upon certiorari or certification as provided in section 1254 of title 28, United States Code.

[(e) For the purposes of this section, the term "application" includes—

[(1) an application for a grant;

[(2) an offer to make a contract;

[(3) a State plan for the administration of an applicable program;

[(4) State assurances with respect to the administration of such a program; and

[(5) any other methods for seeking Federal funds from the Commissioner of Education;

under which an agency, institution, organization, or other organized entity may become the recipient of Federal funds.]

* * * * * * *

[AUTHORITY TO VEST TITLE TO EQUIPMENT

[SEC. 436. The authority of the Commissioner of Education to make a grant to or contract with a local educational agency or State educational agency as such agencies are defined in sections 801(f) and 801(k) of the Elementary and Secondary Education Act of 1965, under any applicable program, shall include discretionary authority, whenever he determines that it would be in the public interest, to vest title to equipment purchased with grant or contract funds in such agency (or waive accountability to the United States for such equipment) without further obligation to the Government or on such terms or conditions as the Commissioner deems appropriate. The authority provided by this section shall be applicable to equipment purchased with funds provided by grants or contracts made on, before, or after the date of the enactment of this section.]

* * * * * * *

[RESPONSIBILITY OF STATES TO FURNISH INFORMATION

[SEC. 437. (a) The Commissioner shall require that each State submit to him, within ninety days after the end of any fiscal year, a report on the uses of Federal fusds in that State under any applicable program for which the State is responsible for administration. Such report shall—

[(1) list all grants and contracts made under such program to the local educational agencies and other public and private agencies and institutions within such State during such year;

[(2) include the total amount of funds available to the State under each such program for such fiscal year and specify from which appropriation Act or Acts these funds were available;

[(3) with respect to the second preceding fiscal year, include a compilation of reports from local educational agencies and other public and private agencies and institutions within such State which sets forth the amount of such Federal funds received by each such agency and the purposes for which such funds were expended;

[(4) with respect to such second preceding fiscal year, include a statistical report on the individuals served or affected by programs, projects, or activities assisted with such Federal funds; and

[(5) be made readily available by the State to local educational agencies and other public and private agencies and institutions within the State, and to the public.

[(b) On or before March 31 of each year, the Commissioner shall submit to the Committee on Labor and Public Welfare of the Senate and to the Committee on Education and Labor of the House of Representatives an analysis of these reports and a compilation of statistical data derived therefrom.]

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Subpart 3—Administration of Education Programs and Projects by States and Local Educational Agencies

STATE EDUCATIONAL AGENCY MONITORING AND ENFORCEMENT

Sec. 434. (a) In the case of any applicable program in which Federal funds are made available to local agencies in a State through or under the supervision of a State board or agency, the Commissioner may require the State to submit a plan for monitoring compliance by local agencies with Federal requirements under such program and for enforcement by the State of such requirements. The Commissioner may require such plan to provide—

(1) for periodic visits by State personnel of programs administered by local agencies to determine whether such programs are being conducted in accordance with such requirements;

(2) for periodic audits of expenditures under such programs by auditors of the State or other auditors not under the control, direction, or supervision of the local educational agency; and

(3) that the State investigate and resolve all complaints received by the State, or referred to the State by the Commissioner, relating to the administration of such programs.

(b) In order to enforce the Federal requirements under any applicable program the State may—

(1) withhold approval, in whole or in part, of the application of a local agency for funds under the program until the State is satisfied that such requirements will be met; except that the State shall not finally disapprove such an application unless the State provides the local agency an opportunity for a hearing by an impartial hearing officer and such officer determines that there has been a substantial failure by the local agency to comply with any of such requirements;

(2) suspend payments to any local agency, in whole or part, under the program if the State has reason to believe that the local

agency has failed substantially to comply with any of such requirements; except that (A) the State shall not suspend such payments until fifteen days after the State provides the local agency an opportunity to show cause why such action should not be taken and (B) no such suspension shall continue in effect longer than sixty days unless the State within such period provides the notice for a hearing required under paragraph (3) of this subsection;

(3) withhold payments, in whole or in part, under any such program if the State finds, after reasonable notice and opportunity for a hearing before an impartial hearing officer, that the local agency has failed substantially to comply with any of such requirements.

Any withholding of payments under paragraph (3) of this subsection shall continue until the State is satisfied that there is no longer a failure to comply substantially with any of such requirements.

SINGLE STATE APPLICATION

SEC. 435. (a) Each State which desires to participate in programs authorized under—

(1) title I of the Elementary and Secondary Education Act of 1965,

(2) title IV of the Elementary and Secondary Education Act of 1965,

(3) the Adult Education Act,

(4) part B of the Education of the Handicapped Act,

(5) part A of the Vocational Education Act of 1963,

(6) the Library Services and Construction Act, or

(7) any other applicable program designated by the Commissioner for the purposes of this section under which Federal funds are made available for use within the State, or for distribution to agencies or institutions within the State under the supervision of a State agency or board,

shall submit to the Commissioner a general application containing the assurances set forth in subsection (b). Such application may be submitted jointly for all programs covered by the application, or it may be submitted separately for each such program or for groups of programs. Each application submitted under this section must be approved by each official, agency, board, or other entity within the State which, under State law, is primarily responsible for supervision of the activities conducted under each program covered by the application.

(b) An application submitted under subsection (a) shall set forth assurances, satisfactory to the Commissioner—

(1) that each program will be administered in accordance with all applicable statutes, regulations, program plans, and applications;

(2) that the control of funds provided under each program and title to property acquired with program funds will be in a public agency, or in a nonprofit private agency, institution, or organization if the statute authorizing the program provides for grants to

such entities, and that the public agency or nonprofit private agency, institution, or organization will administer such funds and property;

(3) that the State will adopt and use proper methods of administering each applicable program, including—

(A) monitoring of agencies, institutions, and organizations responsible for carrying out each program, and the enforcement of any obligations imposed on those agencies, institutions, and organizations under law,

(B) providing technical assistance, where necessary, to such agencies, institutions, and organizations,

(C) encouraging the adoption of promising or innovative educational techniques by such agencies, institutions, and organizations,

(D) the dissemination throughout the State of information on program requirements and successful practices, and

(E) the correction of deficiencies in program operations that are identified through monitoring or evaluation;

(4) that the State will evaluate the effectiveness of covered programs in meeting their statutory objectives, at such intervals (not less often than once every three years) and in accordance with such procedures as the Commissioner may prescribe by regulation, and that the State will cooperate in carrying out any evaluation of each program conducted by or for the Secretary or other Federal official;

(5) that the State will use fiscal control and fund accounting procedures that will ensure proper disbursement of, and accounting for, Federal funds paid to the State under each program;

(6) that the State will make reports to the Commissioner (including reports on the results of evaluations required under paragraph (4)) as may reasonably be necessary to enable the Commissioner to perform his duties under each program, and that the State will maintain such records, in accordance with the requirements of section 437 of this Act and afford access to the records as the Commissioner may find necessary to carry out his duties; and

(7) that the State will provide reasonable opportunities for the participation by local agencies, representatives of the class of individuals affected by each program, and other interested institutions, organizations, and individuals in the planning for and operation of each program, including the following:

(A) the State will consult with relevant advisory committees, local agencies, interest groups, and experienced professionals in the development of program plans required by statute;

(B) the State will publish each proposed plan, in a manner that will ensure circulation throughout the State, at least sixty days prior to the date on which the plan is submitted to the Commissioner or on which the plan becomes effective, whichever occurs earlier, with an opportunity for public comments on such plan to be accepted for at least thirty days;

(C) the State will hold public hearings on the proposed plans if required by the Commissioner by regulation; and

(D) the State will provide an opportunity for interested agencies, organizations, and individuals to suggest improvements in the administration of the program and to allege that there has been a failure by any entity to comply with applicable statutes and regulations.

(c) Each general application submitted under this section shall remain in effect for the duration of any program it covers. The Commissioner shall not require the resubmission or amendment of that application unless required by changes in Federal or State law or by other significant changes in the circumstances affecting an assurance in that application.

SINGLE LOCAL EDUCATIONAL AGENCY APPLICATION

Sec. 436. (a) Each local educational agency which participates in an applicable program under which Federal funds are made available to such agency through a State agency or board shall submit to such agency or board a general application containing the assurances set forth in subsection (b). That applicatio nshall cover the participation by that local educational agency in all such programs.

(b) The general application submitted by a local educational agency under subsection (a) shall set forth assurances—

(1) that the local educational agency will administer each program covered by the application in accordance with all applicable statutes, regulations, program plans, and applications;

(2) that the control of funds provided to the local educational agency under each program and title to property acquired with those funds, will be in a public agency and that a public agency will administer those funds and property;

(3) that the local educational agency will use fiscal control and fund accounting procedures that will ensure proper disbursement of, and accounting for, Federal funds paid to that agency under each program;

(4) that the local educational agency will make reports to the State agency or board and to the Commissioner as may reasonably be necessary to enable the State agency or board and the Commissioner to perform their duties and that the local educational agency will maintain such records, including the records required under section 437, and provide access to those records, as the State agency or board or the Commissioner deem necessary to perform their duties;

(5) that the local educational agency will provide reasonable opportunities for the participation by teachers, parents, and other interested agencies, organizations, and individuals in the planning for and operation of each program;

(6) that any application, evaluation, periodic program plan or report relating to each program will be made readily available to parents and other members of the general public;

(7) that in the case of any project involving construction—

(A) the project is not inconsistent with overall State plans for the construction of school facilities, and

(B) in developing plans for construction, due consideration will be given to excellence of architecture and design and to compliance with standards prescribed by the Secretary under section 504 of the Rehabilitation Act of 1973 in order to ensure that facilities constructed with the use of Federal funds are accessible to and usable by handicapped individuals; and

(8) that the local educational agency has adopted effective procedures for acquiring and disseminating to teachers and administrators participating in each program significant information from educational research, demonstrations, and similar projects, and for adopting, where appropriate, promising educational practices developed through such projects.

(c) A general application submitted under this section shall remain in effect for the duration of the programs it covers. The State agencies or boards administering the programs covered by the application shall not require the resubmission or amendment of such application unless required by changes in Federal or State law or by other significant change in the circumstances affecting an assurance in such application.

Subpart 4—Records; Privacy; Limitation on Withholding Federal Funds

RECORDS

SEC. 437. (a) Each recipient of Federal funds under any applicable program through any grant, subgrant, contract, subcontract, loan, or other arrangement (other than procurement contracts awarded by an administrative head of an educational agency) shall keep records which fully disclose the amount and disposition by the recipient of those funds, the total cost of the activity for which the funds are used, the share of that cost provided from other sources, and such other records as will facilitate an effective audit. The recipient shall maintain such records for five years after the completion of the activity for which the funds are used.

(b) The Secretary and the Comptroller General of the United States, or any of their duly authorized representatives, shall have access, for the purpose of audit examination, to any records of a recipient which may be related, or pertinent to, the grants, subgrants, contracts, subcontracts, loans, or other arrangements to which reference is made in subsection (a), or which may relate to the compliance of the recipient with any requirement of an applicable program.

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PART D—ADVISORY COUNCILS

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RELATION TO OTHER LAWS

SEC. 449. (a) No provision of any law establishing, authorizing the establishment of, or controlling the operation of, an advisory council which is not consistent with the provisions of this part shall apply to any advisory council to which this part applies.

(b) The provisions of subsections (e) and (f) of section 10 of the Federal Advisory Committee Act shall not apply to Presidential advisory councils (as defined in section 441).

Sec. 450. Under regulations issued by the Commissioner, in a State with mandated parent advisory councils for State education programs which substantially meet the requirements and intent of Federal education programs requiring parent advisory councils, a local education agency may provide for the consolidation of such parent advisory councils into a single school advisory council or a single district advisory council, to advise the school or district administration concerning appropriate State and Federal education programs. Such single school or district advisory council shall have as a majority of its members parents of the children eligible to be served and shall be composed of members elected by the parents. Such single school or district advisory councils shall, in accordance with section 35, section 703(a)(4)(E), and section 708(c)(3) of the Elementary and Secondary Education Act, be given responsibility by the local education agency for advising the school or district in the planning for, and implementation and evaluation of, the school or district programs and projects being assisted by State or Federal education funds.

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Sec. 450. Under regulations issued by the Commissioner, in a State with mandated parent advisory councils for State education programs which substantially meet the requirements and intent of Federal education programs requiring parent advisory councils, a local education agency may provide for the consolidation of such parent advisory councils into a single school advisory council or a single district advisory council, to advise the school or district administration concerning appropriate State and Federal education programs. Such single school or district advisory council shall have as a majority of its members parents of the children eligible to be served and shall be composed of members elected by the parents. Such single school or district advisory councils shall, in accordance with section 35, section 703(a)(4)(E), and section 708(c)(3) of the Elementary and Secondary Education Act, be given responsibility by the local educational agency for advising the school or district in the planning for, and implementation and evaluation of, the school or district programs and projects being assisted by State or Federal education funds.

Part E—Enforcement

EDUCATION APPEAL BOARD

Sec. 451. (a) The Commissioner shall establish in the Office of Education an Education Appeal Board (hereinafter in this part referred to as the "Board") the functions of which shall be conducted—

(1) audit appeal hearings pursuant to section 452 of this Act,

(2) withholding hearings pursuant to section 453 of this Act,

(3) cease and desist hearings pursuant to section 454 of this Act, and

(4) other proceedings designated by the Commissioner.

(b) The members of the Board shall be designated by the Secretary, in consultation with the Assistant Secretary for Education and the Commissioner, and may include individuals who are officers or employees of the United States, as well as individuals who are not full-time employees of the Federal Government.

(c) The Board shall be composed of not less than fifteen nor more than thirty members, of whom no more than one-third shall be officers or employees of the Department. The Secretary shall designate one of the members of the Board to be the Chairman of the Board.

(d) For the purposes of conducting hearings as provided in subsection (a) the Chairman may appoint hearing panels of not less than three members of the Board, or the Chairman may designate the entire Board to sit as a panel for any case or class of cases. On any such panel—

(1) the majority of members shall not be individuals in the full-time employment of the Federal Government,

(2) the membership shall not include any individual who is a party to, or has any responsibility for, any particular matter assigned to that panel, and

(3) the Chairman of the Board shall designate one member of each such panel to be the presiding officer.

(e) The proceedings of the Board shall be conducted according to such rules as the Commissioner shall prescribe by regulation respecting—

(1) the receipt of oral or written testimony,
(2) notice of the issues to be considered,
(3) the right to counsel,
(4) intervention of third parties,
(5) transcripts of proceedings, and
(6) such other matters as may be necessary to carry out the functions of the Board.

(f) If there has been established within the Department of Health, Education, and Welfare an appeal board which the Commissioner determines is capable of carrying out the functions of the Board established under this section, he may, with the approval of the Secretary, designate such Department appeal board to carry out the functions of this section.

AUDIT DETERMINATIONS

Sec. 452. (a) Whenever the Commissioner determines that an expenditure not allowable under a program listed in section 435(a) of this title, or conducted under title VII of the Elementary and Secondary Education Act of 1965 or under the Emergency School Aid Act, has been made by a State or by a local educational agency, or that a State or local educational agency has otherwise failed to discharge its obligation to account for funds under any such program, the Commissioner shall give such State or local educational agency written notice of a final audit determination, and he shall at the same time notify such State or agency of its right to have such determination reviewed by the Board.

(b) A State or a local educational agency that has received written notice of a final audit determination and that desires to have such

determination reviewed by the Board shall submit to the Board an application for review not later than thirty days after receipt of notification of the final audit determination. The application for review shall be in the form and contain the information specified by the Board.

(c) When a State or a local educational agency has submitted an application for review with respect to a final audit determination, no action shall be taken by the Commissioner to collect the amount determined to be owing until the Board has issued a final decision upholding the audit determination as to all or any part of such amount. The filing of such an application shall not affect the authority of the Commissioner to take any other adverse action against such State or agency under this part.

(d) A decision of the Board with respect to an application for review under this section shall become final unless within sixty days following receipt by the State or by the local educational agency of written notice of the decision—

(1) the Commissioner for good cause shown, modifies or sets aside the decision, in whole or in part, in which case the decision shall become final sixty days after such action by the Commissioner, or

(2) the State or the local educational agency files a petition for judicial review as provided in section 455 of this Act.

(e) A final audit determination by the Commissioner under subsection (a) with respect to which review has not been requested pursuant to subsection (b), or a final decision of the Board under this section upholding a final audit determination against a State or a local educational agency shall establish the amount of the audit determination as a claim of the United States which the State or the local educational agency shall be required to pay to the United States and which may be collected by the Commissioner in accordance with the Federal Claims Collection Act of 1966.

(f)(1) Notwithstanding any other provision of law, the Commissioner may, subject to the notice requirements of paragraph (2), compromise any claim established under this section for which the initial determination was found to be not in excess of $50,000, where the Commissioner determines that (A) the collection of any or all of the amount thereof would not be practical or in the public interest, and (B) the practice which resulted in the claim has been corrected and will not recur.

(2) Not less than forty-five days prior to the exercise of the authority to compromise a claim pursuant to paragraph (1), the Commissioner shall publish in the Federal Register a notice of his intention to do so. Such notice shall provide interested persons an opportunity to comment on any proposed action under this subsection through the submission of written data, views, or arguments.

(g) No State and no local educational agency shall be liable to refund any amount expended under an applicable program which is determined to be unauthorized by law if that expenditure was made more than five years before that State or local educational agency is given the notice required by subsection (a).

(h) The Secretary shall employ, assign, or transfer sufficient professional personnel to ensure that all matters brought before the Board may be dealt with in a timely manner.

WITHHOLDINGS

Sec. 453. (a) Whenever the Commissioner has reason to believe that any recipient of funds under any applicable program (other than a program to which regulations promulgated under section 497A of the Higher Education Act of 1965 apply), has failed to comply substantially with any requirement of law applicable to such funds, he shall notify such recipient in writing of his intention to withhold, in whole or in part, further payments under such program, including payments for State or local administrative costs, until he is satisfied that the recipient no longer fails to comply with such assurances or other terms.

(b) The notification required under subsection (a) shall state (1) the facts upon which the Commissioner has based his belief and (2) a notice of opportunity for a hearing to be held on a date at least thirty days after the notification has been sent to the recipient. The hearing shall be held before the Board and shall be conducted in accordance with rules prescribed pursuant to section 451(c) of this Act.

(c) Pending the outcome of any proceeding initiated under this section, the Commissioner may suspend payments to such a recipient, after such recipient has been given reasonable notice and opportunity to show cause why such action should not be taken.

(d) The decision of the Board in any proceeding brought under this section shall become final unless within sixty days following receipt by the recipient of written notice of the decision—

(1) the Commissioner for good cause shown, modifies, or sets aside the decision in whole or in part, in which case the decision as modified shall become final sixty days after such action by the Commissioner, or

(2) the recipient files a petition for judicial review as provided in section 455 of this Act.

CEASE AND DESIST ORDERS

Sec. 454. (a) Whenever the Commissioner has reason to believe that any State or any local educational agency that receives funds under any applicable program has failed to comply substantially with any requirement of law applicable to such funds, in lieu of proceeding under section 453 of this Act, the Commissioner may issue and cause to be served upon such State or upon such local educational agency a complaint (1) stating the charges upon which his belief is based, and (2) containing a notice of a hearing to be held before the Board on a date at least thirty days after the service of that complaint.

(b) The State or the local educational agency upon which such a complaint has been served shall have the right to appear before the Board on the date specified and to show cause why an order should not be entered by the Board requiring such State or such local educational agency to cease and desist from the violation of law charged in the complaint.

(c) The testimony in any hearing held under this section shall be reduced to writing and filed with the Board. If upon that hearing the

Board shall be of the opinion that the State or the local educational agency is in violation of any requirement of law as charged in the complaint, it shall make a report in writing stating its findings of fact and shall issue and cause to be served upon the State or the local educational agency an order requiring the State or the local educational agency to cease and desist from the practice, policy, or procedure which resulted in such violation.

(d) The report and order of the Board shall become final on the sixtieth day following the date upon which the order of the Board was served upon the State or the local educational agency unless before that day the State or local educational agency files a petition for judicial review as provided in section 455 of this Act.

(e) A final order of the Board under this section may be enforced, as determined by the Commissioner, by—

(1) the withholding of any portion of the amount payable, including amounts payable for administrative costs, under the affected program to the State or the local educational agency against which the final order has been issued, or

(2) the Commissioner certifying the facts to the Attorney General whose duty it shall be to cause appropriate proceeding to be brought for the enforcement of the order.

JUDICIAL REVIEW

SEC. 455. (a) Any recipient of funds under an applicable program that would be adversely affected by any action under section 452, 453, or 454 of this Act, and any State entitled to receive funds under a program listed in section 435(a) of this title whose application therefor has been disapproved by the Commissioner, shall be entitled to judicial review of such action in accordance with the provision of this section.

(b) Any State, local educational agency, or other recipient entitled to judicial review under subsection (a) that desires such review of any action by the Commissioner or the Board qualifying for review under this section shall, within sixty days of that action, file with the United States Court of Appeals for the circuit in which that State, local educational agency, or other recipient is located a petition for review of such action. A copy of the petition shall be forthwith transmitted by the clerk of the court to the Commissioner. The Commissioner thereupon shall file in the court the record of the proceedings on which the action was based, as provided in section 2112 of title 28, United States Code.

(c) The findings of fact by the Board, if supported by substantial evidence, shall be conclusive; but the court, for good cause shown, may remand the case to the Board to take further evidence, and the Board may thereupon make new or modified findings of fact and may modify its previous action, and shall certify to the court the record of the further proceedings. Such new or modified findings of fact shall likewise be conclusive if supported by substantial evidence.

(d) The court shall have jurisdiction to affirm the action of the Board or the Commissioner or to set it aside, in whole or in part. The judgment of the court shall be subject to review by the Supreme Court of the United States upon certiorari for certification as provided in section 1254 of title 28, United States Code.

EDUCATION AMENDMENTS OF 1974

* * * * * * *

TITLE I—AMENDMENTS TO THE ELEMENTARY AND SECONDARY EDUCATION ACT OF 1965

AMENDMENTS TO TITLE I OF THE ELEMENTARY AND SECONDARY EDUCATION ACT OF 1965—SPECIAL EDUCATIONAL PROGRAMS AND PROJECTS FOR EDUCATIONALLY DEPRIVED CHILDREN

SEC. 101. (a)(1) * * *

* * * * * * *

(10) There is authorized to be appropriated for each fiscal year a sum not to exceed $15,700,000 to be allocated at the discretion of the Commissioner to assist those local education agencies whose total allocation under [part A] *subpart 1 of part A, and part B*, of title I of the Elementary and Secondary Education Act of 1965 is 90 per centum or less than such allocation under such [part A] *subpart or part* during the preceding fiscal year.

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TITLE III—FEDERAL IMPACT AID PROGRAMS

* * * * * * *

AMENDMENTS TO SECTIONS 3, 5, AND 7 OF PUBLIC LAW 874, EIGHTY-FIRST CONGRESS

SEC. 305. (a) * * *

(b)(1) * * *

(2)(A)(i) Not withstanding any other provision of law unless enacted in express limitation of this subparagraph—

(I) in the case of any local educational agency which is entitled to a payment under section 3 of the Act of September 30, 1950 (Public Law 874, Eighty-first Congress) for the fiscal year ending June 30, 1973, which constituted an amount equal to not less than 10 per centum of the current expenditures of such agency for such fiscal year, the amount paid to such agency pursuant to such Act of September 30, 1950, for any fiscal year beginning after June 30, 1974, and ending prior to October 1, [1978,] *1983*, on the basis of the entitlement of that agency under such section 3, shall not be less than 90 per centum of the amount paid to such agency on the basis of such entitlement for the preceding fiscal year; and

(II) in the case of any other local educational agency, the amount so paid during any fiscal year beginning after June 30, 1974, and ending prior to July 1, 1978, shall not be less than 80 per centum of the amount so paid for the preceding fiscal year.

In the case of any local educational agency which is eligible prior to July 1, 1975, for a payment under section 3 of the Act of September 30, 1950 (Public Law 874, Eighty-first Congress) by reason of the 3 per centum requirement in clause (B) of section 3(c)(2) of such Act, as in effect prior to the effective date of the amendment made by paragraph (1) of subsection (a), but which fails to meet such requirement in any fiscal year ending prior to October 1, [1977,] *1983*, such agency shall continue to be eligible for a payment under such section 3 as then in effect for the two succeeding fiscal years, but the payment under such section during the second of such succeeding fiscal years shall not exceed 50 per centum of the amount of the payment such agency was entitled to receive during the most recent fiscal year in which it was so eligible by reason of such clause (B).

(ii) Funds appropriated for any fiscal year for making payments to local educational agencies pursuant to the Act of September 30, 1950 (Public Law 874, Eighty-first Congress), which are increased by reason of the provisions of division (i) shall, to the extent of any such increase, be separate from funds appropriated for such fiscal year for payments pursuant to title I of such Act which are not so increased. If, for any fiscal year, a law making appropriations for payments pursuant to such title I is enacted and such law makes no express provision for payments increased by division (i)—

(I) all funds so appropriated shall be allocated and paid in accordance with section of 5 such Act of September 30, 1950, and without regard for the provisions of division (i); and

(II) not later than fifteen days after the enactment of such law, the Commissioner shall submit a report to the Committees on Appropriations and on Education and Labor of the House of Representatives and the Committees on Appropriations and Labor and Public Welfare of the Senate, which report shall contain a statement detailing the dollar amounts necessary to satisfy the requirements of division (i) and constitute a budget estimate within the meaning of section 201(a)(5) of the Act of June 10, 1921 (31 U.S.C. 11(a)(5)).

(B) In the case of any local educational agency which experiences a decrease in the number of children determined by the Commissioner of Education under section 3 of the Act of September 30, 1950 (Public Law 874, Eighty-first Congress) of 10 per centum or more of such number—

(i) during the fiscal year ending June 30, 1974, or the fiscal year ending June 30, 1975; or

(ii) during the period beginning July 1, 1973, and ending June 30, 1975;

as the result of a decrease in, or cessation of, Federal activities affecting military installations in the United States announced after April 16, 1973, the amount of the payment to which such agency shall be entitled under title I of such Act, as computed under section 3 of such Act, for any fiscal year ending prior to July 1, [1978,] *1983*, shall not be less than 90 per centum of the amount to which the agency was so entitled during the preceding fiscal year. The provisions of this subparagraph shall be effective on and after July 1, 1974, and with respect to appropriations for the fiscal year ending June 30, 1975, and succeeding fiscal years, and such provisions shall be deemed to have been enacted before the beginning of the fiscal year ending June 30, 1975. Nothing in this subparagraph shall be construed to decrease the amount of the payment to which any local educational agency is entitled for any fiscal year on the basis of entitlements created under section 3 of such Act of September 30, 1950.

(C) During the first fiscal year in which the amendments made by subsection (a) are effective and each of the succeeding fiscal years ending prior to July 1, [1978,] *1983*, the Commissioner shall determine with respect to each local educational agency in any State the number of children who were in average daily attendance at the schools of such agency, and for whom such agency provided free public education, during such fiscal year, and who, while in attendance at such schools resided with a parent employed on Federal property in a State or in a county other than the State or county, as the case may be, in which the school district of such agency is located but which is situated within a reasonable commuting distance from the school district of such agency. If the number of children determined under the preceding sentence is equal to at least 10 per centum of the total number of children determined with respect to such agency for such fiscal year under section 3(b) of the Act of September 30, 1950 (Public Law 874, Eighty-first Congress), the amount to which such agency shall be entitled with respect to a number of children determined under such section 3(b) for such fiscal year, shall not be less than 90 per centum of the amount which such agency received with respect to the number of children so determined during the preceding fiscal year, as computed under section 3 of such Act.

(D)(i) The Commissioner shall determine for each fiscal year beginning after June 30, 1975, and ending prior to July 1, [1978,] *1983*, the amount which each local educational agency would be paid for that fiscal year under section 3 of the Act of September 30, 1950 (Public Law 874, Eighty-first Congress) if the amount appropriated had been allocated as provided in section 5(c) of such Act without regard for entitlements (or portions thereof) which are attributable to determinations under subsections (a) and (b) of such section of the number of children who resided on, or resided with a parent employed on, property which is part of a low-rent housing project described in section 403(1)(C). The Commissioner shall then determine the amount which each local educational agency is to be paid for that fiscal year under such section 3 and allocated in accordance with such section 5(c). If the amount determined with respect to any local educational agency under the first sentence of this division is greater than the amount determined with respect to the second sentence of this division, the Commissioner shall pay to that agency an amount equal to the difference between the amounts so determined.

(ii) Funds appropriated for any fiscal year for making payments pursuant to the third sentence of division (i) shall be separate from funds appropriated for such fiscal year for making payments pursuant to section 5 of the Act of September 30, 1950 (Public Law 874, Eighty-first Congress). If, for any fiscal year, a law making appropriations for payments pursuant to such section 5 is enacted, and such law makes no express provision for payments pursuant to such third sentence—

(I) all funds so appropriated shall be allocated and paid in accordance with such section 5, without regard for such third sentence; and

(II) not later than fifteen days after the enactment of such law, the Commissioner shall submit a report to the Committees on

Appropriations and on Education and Labor of the House of Representatives and the Committees on Appropriations and Labor and Public Welfare of the Senate, which report shall contain a statement detailing the dollar amounts necessary to make the payments required under such third sentence and shall, with respect to such dollar amounts, constitute a budget estimate within the meaning of section 201(a)(5) of the Act of June 10, 1921 (31 U.S.C. 11(a)(5)).

TITLE IV—CONSOLIDATION OF CERTAIN EDUCATION PROGRAMS

* * * * * * *

CONSOLIDATION OF CERTAIN FEDERALLY OPERATED EDUCATION PROGRAMS

SEC. 402. (a) * * *

(b)(1) In carrying out his functions under section 3 of the Special Projects Act, the Commissioner shall reserve not less than 50 per centum of the sums appropriated pursuant to section 4 of such Act for the purposes given preference under paragraph (3) of this subsection and apportioned in accordance with paragraph (2) of this subsection. With respect to the funds to which this paragraph applies, the Commissioner's authority under such section 3 shall include authority to make grants as well as contracts.

(2) Except as is otherwise provided with respect to section 409, the Commissioner shall apportion an amount for each of the purposes set forth in paragraph (3) which bears the same ratio to the sums reserved pursuant to paragraph (1) as the amount permitted to be expended for each such purpose bears to the aggregate of the amounts permitted to be expended for all such purposes.

(3) The sums reserved pursuant to paragraph (1) shall be expended for programs otherwise authorized by an applicable statute and described in the following subparagraphs:

Education for the Use of the Metric System of Measurement

(A) A program to encourage educational agencies and institutions to prepare students to use the metric system of measurement, as provided in section 403.

Gifted and Talented Children

(B) A program for the education of gifted and talented children through grants to the States for such purpose, as provided in section 404 (except subsection (f) thereof).

[Community Schools

[(C) A program of grants to local educational agencies to assist them in planning, establishing, expanding, and operating community education programs, as provided in section 405.]

* * * * * * *

[1] [EDUCATION FOR THE USE OF THE METRIC SYSTEM OF MEASUREMENT

[SEC. 403. (a)(1) The Congress finds that—

[(A) the metric system of measurement is in general use in industrially developed nations and its use is increasing;

[(B) increased use of such metric system in the United States is inevitable, and such a metric system will become the dominant system of weights and measures in the United States; and

[(C) there is no existing Federal program designed to teach children to use such metric system and such a program is necessary if the American people are to adapt to the use of the metric system of weights and measures.

[(2) It is the policy of the United States to encourage educational agencies and institutions to prepare students to use the metric system of measurement with ease and facility as a part of the regular education program.

[(3) For the purposes of this section, the term "metric system of measurement" means the International System of Units as established by the General Conference of Weights and Measures in 1960 and interpreted or modified for the United States by the Secretary of Commerce.

[(b)(1) The Commissioner shall carry out a program of grants and contracts in order to encourage educational agencies and institutions to prepare students to use the metric system of measurement.

[(2) The Commissioner is authorized to make grants to, and contracts with, institutions of higher education, State and local educational agencies, and other public and private nonprofit agencies, organizations, and institutions to develop and carry out the policy set forth in subsection (a).

[(c)(1) Financial assistance under this section may be made available only upon application to the Commissioner. Any such application shall be submitted at such time, in such form, and containing such information as the Commissioner shall prescribe by regulation and shall be approved only if it—

[(A) provides that the activities and services for which assistance is sought will be administered by, or under the supervision of, the applicant;

[(B) describes a program which holds promise of making a substantial contribution toward attaining the purposes of this section;

[(C) sets forth such policies and procedures as will insure adequate evaluation of the activities intended to be carried out under the application; and

[(D) contains such other provisions as the Commissioner determines necessary in order to accomplish the purposes of this title.

[(2) An application from a local educational agency under this section may be approved only if the State educational agency of the State in which such local agency is located has been notified of the application and has been given a reasonable opportunity to offer recommendations with respect to the approval thereof.

[(d) For the purpose of carying out this section, the Commissioner is authorized to expend $10,000,000 for each of the fiscal years ending **prior to July 1, 1978.]**

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[1] Repealed effective October 1, 1979.

[1] [GIFTED AND TALENTED CHILDREN

[SEC. 404. (a) The Commissioner shall designate an administrative unit within the Office of Education to administer the programs and projects authorized by this section and to coordinate all programs for gifted and talented children and youth administered by the Office.

[(b) The Commissioner shall establish or designate a clearinghouse to obtain and disseminate to the public information pertaining to the education of gifted and talented children and youth. The Commissioner is authorized to contract with public or private agencies or organizations to establish and operate the clearinghouse.

[(c)(1) The Commissioner shall make grants to State educational agencies and local educational agencies, in accordance with the provisions of this subsection, in order to assist them in the planning, development, operation, and improvement of programs and projects designed to meet the special educational needs of gifted and talented children at the preschool and elementary and secondary school levels.

[(2)(A) Any State educational agency or local educational agency desiring to receive a grant under this subsection shall submit an application to the Commissioner at such time, in such manner, and containing such information as the Commissioner determines to be necessary to carry out his functions under this section. Such application shall—

[(i) provide satisfactory assurance that funds paid to the applicant will be expended solely to plan, establish, and operate programs and projects which—

[(I) are designed to identify and to meet the special educational and related needs of gifted and talented children, and

[(II) are of sufficient size, scope, and quality as to hold reasonable promise of making substantial progress toward meeting those needs;

[(ii) set forth such policies and procedures as are necessary for acquiring and disseminating information derived from educational research, demonstration and pilot projects, new educational practices and techniques, and the evaluation of the effectiveness of the program or project in achieving its purpose; and

[(iii) provide satisfactory assurance that, to the extent consistent with the number of gifted and talented children in the area to be served by the applicant who are enrolled in nonpublic elementary and secondary schools, provision will be made for the participation of such children.

[(B) The Commissioner shall not approve an application under this subsection from a local educational agency unless such application has been submitted to the State educational agency of the State in which the applicant is located and such State agency has had an opportunity to make recommendations with respect to approval thereof.

[(3) Funds available under an application under this subsection may be used for the acquisition of instructional equipment to the extent such equipment is necessary to enhance the quality or the effectiveness of the program or project for which application is made.

[(4) A State educational agency receiving assistance may carry out its functions under an approved application under this subsection directly or through local educational agencies.

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[1] Repealed effective October 1, 1978.

[(d) The Commissioner is authorized to make grants to State educational agencies to assist them in establishing and maintaining, directly or through grants to institutions of higher education, a program for training personnel engaged or preparing to engage in educating gifted and talented children or as supervisors of such personnel.

[(e) The Commissioner is authorized to make grants to institutions of higher education and other appropriate nonprofit institutions or agencies to provide training to leadership personnel for the education of gifted and talented children and youth. Such leadership personnel may include, but are not limited to, teacher trainers, school administrators, supervisors, researchers, and State consultants. Grants under this subsection may be used for internships, with local, State, or Federal agencies or other public or private agencies or institutions.

[(f) Notwithstanding the second sentence of section 405(b)(1) of the General Education Provisions Act, the National Institute of Education shall, in accordance with the terms and conditions of section 405 of such Act, carry out a program of research and related activities relating to the education of gifted and talented children. The Commissioner is authorized to transfer to the National Institute of Education such sums as may be necessary for the program required by this subsection. As used in the preceding sentence the term "research and related activities" means research, research training, surveys, or demonstrations in the field of education of gifted and talented children and youth, or the dissemination of information derived therefrom, or all of such activities, including (but without limitation) experimental and model schools.

[(g) In addition to the other authority of the Commissioner under this section, the Commissioner is authorized to make contracts with public and private agencies and organizations for the establishment and operation of model projects for the identification and education of gifted and talented children, including such activities as career education, bilingual education, and programs of education for handicapped children and for educationally disadvantaged children. The total of the amounts expended for projects authorized under this subsection shall not exceed 15 per centum of the total of the amounts expended under this section for any fiscal year.

[(h) For the purpose of carrying out the provisions of this section, the Commissioner is authorized to expend not to exceed $12,250,000 for each fiscal year ending prior to July 1, 1978.

[1] [COMMUNITY SCHOOLS

[SEC. 405. (a) This section may be cited as the "Community Schools Act".

[(b) In recognition of the fact that the school, as the prime educational institution of the community, is most effective when the school involves the people of that community in a program designed to fulfill their education needs, and that community education promotes a more efficient use of public education facilities through an extension of school buildings and equipment, it is the purpose of this section to provide educational, recreational, cultural, and other related community services, in accordance with the needs, interests, and concerns of the community, through the establishment of the community education program as a center for such activities in cooperation with other community groups.

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[1] Repealed effective October 1, 1978.

[(c) For purposes of this section and subparagraph (C) of section 402(b)(3), a "community education program" is a program in which a public building, including but not limited to a public elementary or secondary school or a community or junior college, is used as a community center operated in conjunction with other groups in the community, community organizations, and local governmental agencies to provide educational, recreational, cultural, and other related community services for the community that center serves in accordance with the needs, interests, and concerns of that community. Nothing in this section shall be construed to prohibit any applicant under this section from carrying out any activity with funds derived from other sources.

[(d)(1) In order to carry out the purposes and provisions of this section, the Commissioner is authorized to make grants to State educational agencies and to local educational agencies to pay the Federal share of the cost of planning, establishing, expanding, and operating community education programs.

[(2) Fifty percent of the funds made available pursuant to clause (1) of subsection (i) shall be available for grants to State educational agencies. The remainder of such funds shall be available for grants to local educational agencies.

[(3) For the purpose of paragraph (1) of this subsection, the Federal share shall be—

[(A) 80 per centum of a program to establish a new community education program,

[(B) 65 per centum of a program to expand or improve a community education program for the first year in which such program is assisted under this section, and 55 per centum in any fiscal year thereafter, and

[(C) 40 per centum of a program to maintain or carry out a community education program.

[(4) Any State or local educational agency desiring to receive a grant under this section for any fiscal year shall submit an application to the Commissioner shall prescribe by regulation. Each such application shall contain provisions—

[(A) assuring that local community colleges, social, recreational, and health groups will be consulted with respect to programs to be offered and facilities to be used for the purpose of this section;

[(B) assuring that the applicant will pay from non-Federal sources the remaining costs of carrying out the application; and

[(C) containing a description of each community education program for which assistance is sought in sufficient detail to apply the appropriate Federal share specified in clause (3) of this subsection.

The Commissioner shall not approve an application submitted by a local educational agency unless the State educational agency of the State in which that local educational agency is located has been given an opportunity to review, and make comment on, such application.

[(e) The Commissioner is authorized to make grants to institutions of higher education to develop and establish, or to expand, programs which will train persons to plan and operate community education programs.

[(f)(1) The Commissioner shall establish or designate a clearinghouse to gather and disseminate information received from community education programs, including but not limited to information regarding new programs, methods to encourage community participation, and ways of coordinating community education programs with other community services. The Commissioner is authorized to contract with public or private agencies or organizations to establish and operate the clearinghouse.

[(2) The Commissioner shall make available to each community education program such technical assistance and information as the program may require, and such technical assistance shall be coordinated with the national clearinghouse.

[(g)(1) There is established, subject to part D of the General Education Provisions Act, in the Office of the Commissioner, a Community Education Advisory Council (referred to in this section as the "Advisory Council") to be composed of eleven members. The members of the Advisory Council shall be appointed by the Secretary.

[(2) A substantial number of members of the Advisory Council shall be persons experienced in the operation of community education programs and the training of such persons. The Council shall include representatives from various disciplines involved in providing services in community school programs.

[(f)(1) The Commissioner shall establish or designate a clearing-within three months after enactment of this section.

[(4) The Commissioner shall make available to the Advisory Council such staff, information, and other assistance as it may require to carry out its activities.

[(5) The Advisory Council shall advise the Commissioner on policy matters relating to the interests of community schools.

[(6) In the fiscal year ending June 30, 1975, the Advisory Council shall be responsible for advising the Commissioner regarding the establishment of policy guidelines and regulations for the operation and administration of this section. In addition, the Council shall create a system for evaluation of the programs. The Council shall present to Congress a complete and thorough evaluation of the programs and operation of this section for each fiscal year ending after June 30, 1975.

[(h) In approving applications under this section the Commissioner shall insure that there is an equitable geographical distribution of community education programs throughout the United States in both urban and rural areas.

[(i) The Commissioner is authorized to expend (1) for the purpose of subsection (d), $15,000,000 for each fiscal year ending prior to July 1, 1978; and (2) for the purposes of subsection (e), $2,000,000 for each fiscal year ending prior to July 1, 1978.]

[1] [CAREER EDUCATION

[SEC. 406. (a) It is the sense of Congress that—

[(1) every child should, by the time he has completed secondary school, be prepared for gainful or maximum employment and for full participation in our society according to his or her ability;

[(2) it is the obligation of each local educational agency to provide that preparation for all children (including handicapped children and all other children who are educationally disadvantaged) within the school district of such agency; and

[(3) each State and local educational agency should carry out a program of career education which provides every child the widest variety of career education options which are designed to prepare each child for maximum employment and participation in our society according to his or her ability.

[(b) It is the purpose of this section to assist in achieving the policies set forth in subsection (a) by—

[(1) developing information on the needs for career education for all children;

[(2) promoting a national dialogue on career education designed to encourage each State and local educational agency to determine and adopt the approach to career education best suited to the needs of the children served by them;

[(3) assessing the status of career education programs and practices, including a reassessment of the stereotyping of career opportunities by race or by sex;

[(4) providing for the demonstration of the best of the current career education programs and practices by the development and testing of exemplary programs and practices using various theories, concepts, and approaches with respect to career education;

[(5) providing for the training and retraining of persons for conducting career education programs; and

[(6) developing State and local plans for implementing career education programs designed to insure that every child has the opportunity to gain the knowledge and skills necessary for gainful or maximum employment and for full participation in our society according to his or her ability.

[(c)(1) In order to carry out the policies, purposes, and provisions of this section, there is established in the Office of Education an Office of Career Education (hereafter in this section referred to as the "Office"). The Office shall be headed by a Director.

[(2) The Director of the Office shall report directly to the Commissioner.

[(d) For the purposes of this section, the term "career education" means an education process designed—

[(1) to increase the relationship between schools and society as a whole;

[(2) to provide opportunities for counseling, guidance and career development for all children;

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[1] Repealed effective October 1, 1979.

[(3) to relate the subject matter of the curricula of schools to the needs of persons to function in society;

[(4) to extend the concept of the education process beyond the school into the area of employment and the community;

[(5) to foster flexibility in attitudes, skills, and knowledge in order to enable persons to cope with accelerating change and obsolescence;

[(6) to make education more relevant to employment and functioning in society; and

[(7) to eliminate any distinction between education for vocational purposes and general or academic education.

[(e) The Commissioner shall conduct a survey and assessment of the current status of career education programs, projects, curriculums, and materials in the United States and submit to the Congress, not later than May 1, 1976, a report on such survey and assessment. Such report shall include recommendations of the Advisory Council created under subsection (g) for new legislation designed to accomplish the policies and purposes set forth in subsections (a) and (b). In exercising his authority under clauses (ii)(III) and (ii)(V) of section 434(b)(1)(A) of the General Education Provisions Act, for any fiscal year, the Commissioner shall require State educational agencies and local educational agencies to report on their efforts to prepare students for gainful or maximum employment.

[(f)(1) During the period beginning with the enactment of this section and ending September 30, 1978, the Commissioner is authorized to make grants to State and local educational agencies, institutions of higher education, and other nonprofit agencies and organizations to support projects to demonstrate the most effective methods and techniques in career education and to develop exemplary career education models (including models in which handicapped children receive appropriate career education either by participation in regular or modified programs with nonhandicapped children or where necessary in specially designed programs for handicapped children whose handicaps are of such severity that they cannot benefit from regular or modified programs). Grants made under this subsection shall be consistent with the policies set forth in subsection (a) of this subsection.

[(2) During the period beginning one year after the enactment of this section and ending September 30, 1977, the Commissioner is authorized to make grants to State educational agencies to enable them to develop State plans for the development and implementation of career education programs in the local educational agencies of the States. Such plans shall be designed to carry out the policies and purposes set forth in subsections (a) and (b).

[(g)(1) Subject to part D of the General Education Provisions Act and within ninety days after the enactment of this section, there is established a National Advisory Council for Career Education which shall be composed of—

[(A) the Assistant Secretary of Health, Education, and Welfare for Education, the Commissioner of Education, the Director of the Office of Career Education, the Director of the National Institute of Education, the Administrator of the National Center for Education Statistics, the Director of the National Science Foundation, the Chairman of the National Foundation for the Arts, the Chairman of the National Foundation for the Humanities, the Chairman of the National Advisory Council for Vocational Education, all of whom shall serve in a nonvoting ex officio capacity; and

[(B) not less than fifteen public members broadly representative of the fields of education, guidance, and counseling, the arts, the humanities, the sciences, community services, business and industry, and the general public, including (i) members of organizations of handicapped persons, minority groups knowledgeable with respect to discrimination in employment and stereotyping affecting career choices, and women who are knowledgeable with respect to sex discrimination and stereotyping, and (ii) not less than two members who shall be representative of labor and of business, respectively.

[(2) The public members shall be appointed by the Secretary. The Secretary shall select the Chairman from among the public members. The members shall serve for terms of three years with not more than four seats rotating in any one year. The Commissioner shall provide such staff and funds for the Council as deemed necessary and such staff and funds shall be in addition to those provided elsewhere in this title.

[(3) The duties of the Council shall be to advise the Commissioner on the implementation of this section and carry out such advisoy functions as it deems appropriate, including reviewing the operation of this section and all other programs of the Division of Education pertaining to the development and implementation of career education, evaluating their effectiveness in meeting the needs of career education throughout the United States, and in determining the need for further legislative remedy in order that all citizens may benefit from the purposes of career education as prescribed in this section.

[(4) The Council with the assistance of the Commissioner shall conduct a survey and assessment of the current status of career education programs, projects, curricula, and materials in the United States and submit to Congress, not later than May 1, 1976, a report on such survey and assessment. Such report shall include recommendations of the Council for new legislation designed to accomplish the policies and purposes set forth in subsections (a) and (b).

[(h) For the purpose of carrying out the provisions of this section, the Commissioner is authorized to expend not to exceed $15,000,000 for each fiscal year ending prior to July 1, 1978.]

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[1] [WOMEN'S EDUCATIONAL EQUITY

[SEC. 408. (a) This section may be cited as the "Women's Educational Equity Act of 1974."

[(b)(1) The Congress hereby finds and declares that educational programs in the United States (including its possessions), as presently conducted, are frequently inequitable as much programs relate to women and frequently limit the full participation of all individuals in American society.

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[1] Repealed effective October 1, 1979.

[(2) It is the purpose of this section to provide educational equity for women in the United States.

[(c) As used in this section, the term "Council" means the Advisory Council on Women's Educational Programs.

[(d)(1) The Commissioner is authorized to make grants to, and enter into contracts with, public agencies and private nonprofit organizations and with individuals for activities designed to carry out the purposes of this section at all levels of education, including preschool, elementary and secondary education, higher education, and adult education. These activities shall include—

[(A) the development, evaluation, and dissemination by the applicant of curricula, textbooks, and other educational materials related to educational equity;

[(B) preservice and inservice training for educational personnel including guidance and counseling with special emphasis on programs and activities designed to provide educational equity;

[(C) research, development, and educational activities designed to advance educational equity;

[(D) guidance and counseling activities, including the development of nondiscriminatory tests, designed to assure educational equity;

[(E) educational activities to increase opportunities for adult women, including continuing educational activities and programs for underemployed and unemployed women;

[(F) the expansion and improvement of educational programs and activities for women in vocational education, career education, physical education and educational administration.

[(2) A grant may be made and a contract may be entered into under this section only upon application to the Commissioner, at such time, in such form, and containing or accompanied by such information as the Commissioner may prescribe. Each such application shall—

[(A) provide that the program or activity for which assistance is sought will be administered by or under the supervision of the applicant;

[(B) describe a program for carrying out one of the purposes set forth in subsection (d)(1) which holds promise of making a substantial contribution toward attaining such purposes; and

[(C) set forth policies and procedures which insure adequate evaluation of the activities intended to be carried out under the application.

[(3) Nothing in this section shall be construed as prohibiting men from participating in any programs or activities assisted under this section.

[(e) In addition to the authority of the Commissioner under subsection (d), the Commissioner shall carry out a program of small grants, not to exceed $15,000, each, in order to support innovative approaches to achieving the purpose of this section; and for that purpose the Commissioner is authorized to make grants to public and private nonprofit agencies and to individuals.

[(f)(1) There is established in the Office of Education a National Advisory Council on Women's Educational Programs. The Council shall be composed of—

[(A) seventeen individuals, some of whom shall be students, who shall be appointed by the President, by and with the advice and consent of the Senate, from among individuals broadly representative of the general public who, by virtue of their knowledge or experience, are versed in the role and status of women in American society;

[(B) the Chairman of the Civil Rights Commission;

[(C) the Director of the Women's Bureau of the Department of Labor; and

[(D) the Director of the Women's Action Program of the Department of Health, Education, and Welfare.

The Council shall elect its own Chairman from among the members indicated in clause (A).

[(2) The term of office of each member of the Council appointed under clause (A) of paragraph (1) shall be three years, except that—

[(A) the members first appointed under such clause shall serve as designated by the President, six for a term of one year, five for a term of two years, and six for a term of three years; and

[(B) any member appointed to fill a vacancy occurring prior to the expiration of the term for which his predecessor was appointed shall be appointed for the remainder of such term.

[(3) The Council shall—

[(A) advise the Commissioner with respect to general policy matters relating to the administration of this section;

[(B) advise and make recommendations to the Assistant Secretary concerning the improvement of educational equity for women;

[(C) make recommendations to the Commissioner with respect to the allocation of any funds pursuant to this section, including criteria developed to insure an appropriate geographical distribution of approved programs and projects throughout the Nation;

[(D) develop criteria for the establishment of program priorities;

[(E) make such reports as the Council determines appropriate to the President and the Congress on the activities of the Council; and

[(F) disseminate information concerning the activities of the Council under this section.

[(4) From the sums available for the purposes of this section, the Commissioner is authorized and directed to conduct a national, comprehensive review of sex discrimination in education, to be submitted to the Council not later than twenty months after the date of enactment of this section. The Council shall review the report of the Commissioner and shall make such recommendations, including recommendations for additional legislation, as it deems advisable.

[(5) The provisions of part D of the General Education Provisions Act shall apply with respect to the Council established under this subsection.

[(g) The Commissioner is directed, at the end of each fiscal year, to submit to the President and the Congress and to the Council a report setting forth the programs and activities assisted under this section, and to provide for the distribution of this report to all interested groups and individuals, including the Congress, from funds authorized under this section. After receiving the report from the Commissioner, the Council shall evaluate the programs and projects assisted under this section and include such evaluation in its annual report.

[(h) For the purpose of carrying out this section, the Commissioner is authorized to expend not to exceed $30,000,000 for each fiscal year prior to July 1, 1978.

[1] [ELEMENTARY AND SECONDARY SCHOOL EDUCATION IN THE ARTS

[SEC. 409. (a) The Commissioner shall, during the period beginning after September 30, 1974 and ending on June 30, 1978, through arrangements made with the John F. Kennedy Center for the Performing Arts, carry out a program of grants and contracts to encourage and assist State and local educational agencies to establish and conduct programs in which the arts are an integral part of elementary and secondary school programs. Not less than $750,000 shall be available for the purposes of this section during any fiscal year during the period for which provision is made in the preceding sentence.

[(b) Notwithstanding the provisions of section 402(b)(3)(G) and section 402(b)(4) of this Act, and in addition to sums reserved under that section and made available under subsection (a) of this section, there are authorized to be appropriated $2,000,000 for fiscal year 1978 to carry out the purposes of this section.]

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[TITLE VII—NATIONAL READING IMPROVEMENT PROGRAM

[STATEMENT OF PURPOSE

[SEC. 701. It is the purpose of this title—

[(1) to provide financial assistance to encourage State and local educational agencies to undertake projects to strengthen reading instruction programs in elementary grades;

[(2) to provide financial assistance for the development and enhancement of necessary skills of instructional and other educational staff for reading programs;

[(3) to develop a means by which measurable objectives for reading programs can be established and progress toward such objectives assessed;

[(4) to develop the capacity of preelementary school children for reading, and to establish and improve preelementary school programs in language arts and reading; and

[(5) to provide financial assistance to promote literacy among youth and adults.

[PART A—READING IMPROVEMENT PROJECTS

[PROJECTS AUTHORIZED

[SEC. 705. (a)(1) The Commissioner is authorized to enter into agreements with other State educational agencies or local educational agencies, or both, for the carrying out by such agencies, in schools having large numbers or a high percentage of children with reading deficiencies, of projects involving the use of innovative methods, systems, materials, or programs which show promise of overcoming such reading deficiencies.

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[1] Repealed effective October 1, 1979.

[(2) The Commissioner is further authorized to enter into agreements with State educational agencies, local educational agencies, or with nonprofit educational or child care institutions for the carrying out by such agencies and institutions, in areas where such schools are located, of such projects for preelementary school children. Such projects are to be instituted in kindergartens, nursery schools, or other preschool institutions.

[(3) (A) Notwithstanding the requirements of paragraphs (b) through (g) of this section, the Commissioner is authorized to enter into agreements pursuant to this paragraph during the fiscal year 1976 and the period beginning July 1, 1976 through September 30, 1976, with State educational agencies for the carrying out by such agencies of leadership and training activities designed to prepare personnel throughout the State to conduct projects which have been demonstrated in that State or in other States to be effective in overcoming reading deficiencies. These activities shall be limited to (i) assessments of need, including personnel needs, relating to reading problems in the State, (ii) inservice training for local reading program administrators and instructional personnel, and (iii) provision of technical assistance and dissemination of information to local educational agencies and other appropriate nonprofit agencies.

[(B) Not to exceed $5,300,000 of any sums appropriated pursuant to subsection (a) of section 732 for the fiscal year 1976, and for the period from July 1, 1976 through September 30, 1976, may be used for carrying out this paragraph.

[(b) No agreement may be entered into under this part, unless upon an application made to the Commissioner at such time, in such manner, and including or accompanied by such information as he may reasonably require. Each such application shall set forth a reading program which provides for the following (except that the requirements contained in paragraphs (4) and (13) shall be met to the extent practicable)—

[(1) diagnostic testing designed to identify preelementary and elementary school children with reading deficiencies, including the identification of conditions which, without appropriate other treatment, can be expected to impede or prevent children from learning to read;

[(2) planning for and establishing comprehensive reading programs;

[(3) reading instruction for elementary school pupils whose reading achievement is less than that which would normally be expected for pupils of comparable ages and in comparable grades of school;

[(4) preservice training programs for teaching personnel including teacher-aides and other ancillary educational personnel, and inservice training and development programs, where feasible, designed to enable such personnel to improve their ability to teach students to read;

[(5) participation of the school faculty, school board members, administration, parents, and students in reading-related activities which stimulate an interest in reading and are conducive to the improvement of reading skills;

[(6) parent participation in development and implementation of the program for which assistance is sought;

[(7) local educational agency school board participation in the development of programs;

[(8) periodic testing in programs for elementary school children on a sufficiently frequent basis to measure accurately reading achievement, and for programs for preelementary school children a test of reading proficiency at the conclusion, minimally, of the first-grade program into which the nursery and kindergarten programs are integrated;

[(9) publication of test results on reading achievement by grade level, and where appropriate, by school, without identification of achievement of individual children;

[(10) availability of test results on reading achievement on an individual basis to parents or guardians of any child being so tested;

[(11) participation on an equitable basis by children enrolled in nonprofit private elementary schools in the area to be served (after consultation with the appropriate private school officials) to an extent consistent with the number of such children whose educational needs are of the kind the program is intended to meet;

[(12) the use of bilingual education methods and techniques to the extent consistent with the number of elementary school-age children in the area served by a reading program who are of limited English-speaking ability;

[(13) appropriate involvement of leaders of the cultural and educational resources of the area to be served, including institutions of higher education, nonprofit private schools, public and private nonprofit agencies such as libraries, museums, educational radio and television, and other cultural and education resources of the community; and

[(14) assessment, evaluation, and collection of information on individual children by teachers during each year of the preelementary program, to be made available for teachers in the subsequent year, in order that continuity of the individual child not be lost.

[(c) Each such applicant, in addition to meeting the requirements of subsection (b) except for paragraphs (4) and (13) thereof, shall provide assurances that—

[(1) appropriate measures have been taken by the agency to analyze the reasons why elementary school children are not reading at the appropriate grade level;

[(2) the agency will develop a plan setting forth specific objectives which shall include the goals of having the children in project schools reading at the appropriate grade level at the end of grade three; and

[(3) whenever appropriate, sufficient measures will be taken to coordinate each preelementary reading program with the reading program of the educational agencies or institutions at which such preelementary school children will be next in attendance.

[(d) No grant may be made under this part unless the application for such grant provides assurances that the provisions of this subsection are met. Each State educational agency shall—

[(1) establish an advisory council on reading appointed by such agency which shall be broadly representative of the education resources of the State and of the general public, including persons representative of—

[(A) Public and private nonprofit elementary and secondary schools,

[(B) institutions of higher education,

[(C) parents of elementary and secondary school children, and

[(D) areas of professional competence relating to instruction in reading, and

[(2) authorize the advisory council established under clause (1) to receive and designate priorities among applications for grants under this section in that State,

if—

[(i) That State educational agency desires to receive a grant under this part, or

[(ii) any local educational agency that the State desires to receive a grant under this part, and notifies the State educational agency concerned, or

[(iii) in the case of a preelementary school program any nonprofit educational agency or child care institution in that State desires to receive a grant under this part, and notifies the State educational agency concerned.

[(e) No agreement may be entered into under this part unless the application submitted to the Commissioner has first been approved by the State educational agency.

[(f) The Commissioner may approve any application submitted under this part which meets the requirements of subsections (b), (c), (d), and (e). In approving such applications, the Commissioner may not use any panel (other than employees of the Office of Education) for the purpose of such approval.

[(g) In approving applications under this part the Commissioner shall, to the maximum extent feasible, assure an equitable distribution of funds throughout the United States and among urban and rural areas. Not more than 12½ percent of the funds extended under this part in any fiscal year may be expended in any State in that year.

[(h) From the sums appropriated for the purposes of this part for any fiscal year, the Commissioner may pay to each State educational agency, in addition to any amounts paid to such agency pursuant to subsection (a) of this section, the amount necessary to meet the costs of carrying out its responsibilities under this section, including the costs of the advisory council required to be established pursuant to subsection (d). However, such amount may not exceed 1 per centum of the total amount of grants under this part made within the State for that fiscal year.

[PART B—STATE READING IMPROVEMENT PROGRAMS

[STATEMENT OF PURPOSE

[SEC. 711. It is the purpose of this part to provide financial assistance to the States to enable them—

[(1) to provide financial assistance for projects designed to facilitate reaching the objectives of this title;

[(2) to develop comprehensive programs to improve reading proficiency and instruction in reading in the elementary schools of the State;

[(3) to provide State leadership in the planning, improving, execution, and evaluation of reading programs in elementary schools; and

[(4) to arrange for and assist in the training of special reading personnel and specialists needed in programs assisted under this title.

[APPLICABILITY AND EFFECTIVE DATE

[SEC. 712. (a) The provisions of this part shall become effective only in any fiscal year in which appropriations made pursuant to section 732(a) exceed $30,000,000 and then only with respect to the amount of such excess.

[(b) The provisions of this part shall be effective on and after the beginning of fiscal year 1976.

[ALLOTMENTS TO STATES

[SEC. 713. (a)(1) From the sums appropriated pursuant to section 732(a) for each fiscal year which are available for carrying out this part, the Commissioner shall reserve such amount, but not in excess of 1 per centum of such sums, as he may determine, and shall apportion such amount to Guam, American Samoa, the Virgin Islands, and the Trust Territory of the Pacific Islands according to their respective needs for assistance under this title. Of the remainder of such sums, he shall allot an amount to each State which bears the same ratio to the amount available for allotment as the number of school age children (aged 5 to 12 inclusive) in each such State bears to the total number of such children in all the States, as determined by the Commissioner on the basis of the most recent satisfactory data available to him. The allotment of a State which would be less than $50,000 under the preceding sentence shall be increased to $50,000, and the total of the increases thereby required shall be derived by proportionally reducing the allotments to the remaining States under the preceding sentence, but with such adjustments as may be necessary to prevent the allotments to any such remaining States from being reduced to less than $50,000.

[(2) For the purpose of this section the term "State" includes the District of Columbia and the Commonwealth of Puerto Rico.

[(b) The amount allotted to any State under subsection (a) for any fiscal year which the Commissioner determines will not be required for that year shall be available for reallotment from time to time, on such dates during that year as the Commissioner may fix, to other

States in proportion to the amounts originally allotted among those States under subsection (a) for that year, but with the proportionate amount for any of the other States being reduced to the extent it exceeds the sum the Commissioner estimates the local educational agencies of such State need and will be able to use for that year; and the total of these reductions shall be similarly reallotted among the States whose proportionate amounts were not so reduced. Any amount reallotted to a State under this subsection from funds appropriated pursuant to section 732 for any fiscal year shall be deemed part of the amount allotted to it under subsection (a) for that year.

[AGREEMENTS WITH STATE EDUCATIONAL AGENCIES

[SEC. 714. (a) Any State which desires to receive grants under this part shall, through its State educational agency, enter into an agreement with the Commissioner, in such detail as the Commissioner deems necessary, which—

[(1) designates the State educational agency as the sole agency for administration of the agreement;

[(2) provides for the establishment of a State advisory council on reading, appointed by the State educational agency, which shall be broadly representative of the educational resources of the State and of the general public, including persons representative of—

[(A) public and private nonprofit elementary school children, and

[(B) institutions of higher education,

[(C) parents of elementary school children, and

[(D) areas of professional competence relating to instruction in reading,

to advise the State educational agency on the formulation of a standard of excellence for reading programs in the elementary schools and on the preparation of, and policy matters arising in the administration of, the agreement (including the criteria for approval of applications for assistance under such agreement) and in the evaluation of results of the program carried out pursuant to the agreement;

[(3) describes the reading programs in elementary schools for which assistance is sought under this part and procedures for giving priority to reading programs which are already receiving Federal financial assistance and show reasonable promise of achieving success;

[(4) sets forth procedures for the submission of applications by local education agencies within that State, including procedures for an adequate description of the reading programs for which assistance is sought under this part;

[(5) sets forth criteria for achieving an equitable distribution of that part of the assistance under this part which is made available to local educational agencies pursuant to the second sentence of subsection (b) of this section, which criteria shall—

[(A) take into account the size of the population to be served, beginning with preschool, the relative needs of pupils in different population groups within the State for the program authorized by this title, and the financial ability of the local educational agency serving such pupils,

[(B) assure that such distribution shall include grants to local educational agencies having high concentrations of children with low reading proficiency, and

[(C) assure an equitable distribution of funds among urban and rural areas;

[(6) sets forth criteria for the selection or designation and training of personnel (such as reading specialists and administrators of reading programs) engaged in programs assisted under this part, including training for private elementary school personnel, which shall include qualifications acceptable for such personnel;

[(7) provides for the coordination and evaluation of programs assisted under this part;

[(8) provides for technical assistance and support services for local educational agencies participating in the program;

[(9) makes provision for the dissemination to the educational community and the general public of information about the objectives of the program and results achieved in the course of its implementation;

[(10) provides for making an annual report and such other reports, in such form and containing such information, as the Commissioner may reasonably require to evaluate the effectiveness of the program and to carry out his other functions under this title;

[(11) provides that not more than 5 per centum of the amount allotted to the State under section 713 for any fiscal year may be retained by the State educational agency for purposes of administering the agreement; and

[(12) provides that programs assisted under this art shall be of sufficient size, scope, and quality so as to give reasonable promise of substantial progress toward achieving the purposes of this title.

[(b) Grants for projects to carry out the purposes of this part may be made to local educational agencies (subject to the provision of subsection (e) relating to the participation of private elementary and secondary school pupils), institutions of higher education, and other public and nonprofit private agencies and institutions. Not less than 60 per centum of the amount allotted to a State under section 713 for any fiscal year shall be made available by the State for grants to local educational agencies within that State.

[(c) The Commissioner shall enter into an agreement which complies with the provisions of subsection (a) with any State which desires to enter into such an agreement.

[(d) The Commissioner's final action was respect to entering into an agreement under subsection (a) shall be subject to the provisions of section 207 of the Elementary and Secondary Education Act of 1965, relating to judicial review.

[(e) The provisions of section 141A of the Elementary and Secondary Education Act of 1965 relating to the participation of children enrolled in private elementary and secondary schools shall apply to programs assisted under this part.

[(f) The functions of the State advisory council on reading, required to be established by subsection (a)(2) of this section, may be carried out by the State advisory council created pursuant to section 705(d)(1).

[Part C—Other Reading Improvement Programs

[SPECIAL EMPHASIS PROJECTS

[Sec. 721. (a) The Commissioner is authorized to contract with local educational agencies for special emphasis projects to determine the effectivenes of intensive instruction by reading specialists and reading teachers. Each such project should provide for—

[(1) the teaching of reading by a reading specialist for all children in the first and second grades of an elementary school and the teaching of reading by a reading specialist for elementary school children in grades three through six who have reading problems; and

[(2) an intensive vacation reading program for elementary school children who are found to be reading below the appropriate grade level or who are experiencing problems in learning to read.

[(b) No contract may be entered into under this section unless upon an application made to the Commissioner at such time in such manner, and including or accompanied by such information as he may reasonably require. Each such application shall provide assurances that—

[(1) the provisions of section 705(b) and (c) are met; and

[(2) the State educational agency has certified that individuals employed as reading specialists and reading teachers meet the requirements of subsections (e) and (f).

[(c) No contract may be entered into under this section unless the project has been approved by the State educational agency.

[(d) The Commissioner is authorized to enter into at least one arrangement with a local educational agency for a districtwide project conducted in all schools of such agencies. In selecting the districtwide project, the Commissioner shall give priority to an application from a local educational agency if the Commissioner finds that—

[(1) the local educational agency will give credit for any course to be developed for reading teachers or reading specialists under section 722 and will encourage participation by the teachers of such agency in the training;

[(2) the local public educational television station will present or distribute, in the event supplementary noncommercial telecommunication is utilized, any course to be developed under section 722 at an hour convenient for the viewing by elementary school teachers, and, if possible, at a time convenient for such teachers to take the course, as a group, at the elementary school where they teach; and

[(3) the local educational agency will make arrangements with the appropriate officials of institutions of higher education to obtain academic credit for the completion of such a course.

[(e) In any project assisted under this section a reading teacher may be used in lieu of a reading specialist, if the Commissioner finds that the local educational agency participating in a reading emphasis project is unable to secure individuals who meet the requirements of a reading specialist and if such reading teacher is enrolled or will enroll in a program to become a reading specialist. A regular elementary teacher may be used in lieu of a reading teacher if the Commissioner finds that the local educational agency participating in a reading emphasis project is unable to secure individuals who meet the requirements of the reading teacher, and if such regular elementary teacher is enrolled or will enroll in a program to become a reading teacher.

[(f) For the purpose of this section and section 722 the term—

[(1) "reading specialist" means an individual who has a master's degree, with a major or specialty in reading, from an accredited institution of higher education and has successfully completed three years of teaching experience, which includes reading instruction, and

[(2) "reading teacher" means an individual, with a bachelor's degree, who has successfully completed a minimum of twelve credit hours, or its equivalent, in courses of the teaching of reading at an accredited institution of higher education, and has successfully completed two years of teaching experience, which includes reading instruction.

[READING TRAINING ON PUBLIC TELEVISION

[SEC. 722. (a) The Commissioner is authorized, through grants or contracts, to enter into contractual arrangements with institutions of higher education, public or private agencies or organizations, and individuals for—

[(1) the preparation, production, evaluation, and distribution for use on public educational television stations of courses for elementary school teachers who are or intend to become reading teachers or reading specialists; and

[(2) the preparation and distribution of informational and study course material to be used in conjunction with any such course.

[(b) In carrying out the provisions of this section the Commissioner shall consult with recognized authorities in the field of reading, specialists in the use of the communications media for educational purposes, and with the State and local educational agencies participating in projects under this title.

[READING ACADEMIES

[SEC. 723. (a) The Commissioner is authorized to make grants to and to enter into contracts with State and local educational agencies, institutions of higher education, community organizations and other nonprofit organizations, having the capacity to furnish reading assistance and instruction to in-school as well as out-of-school youths and adults who do not otherwise receive such assistance and instruction.

[(b) Grants made and contracts entered into under this section shall contain provisions to assure that such reading assistance and instruction will be provided in appropriate facilities to be known as "reading academies".

[STATE LEADERSHIP AND TRAINING PROJECTS

[SEC. 724. The Commissioner is authorized to enter into agreements pursuant to this section with State educational agencies for the carrying out by such agencies of leadership and training activities designed to prepare personnel throughout the State to conduct projects which have been demonstrated in that State or other States to be effective in overcoming reading deficiencies. The activities authorized by this section shall be limited to—

[(1) assessments of need, including personnel needs, relating to reading problems in the State,

[(2) inservice training for local reading program administrators and instructional personnel, and

[(3) provision of technical assistance and dissemination of information to local educational agencies and other appropriate nonprofit agencies.

[NATIONAL IMPACT READING PROGRAMS

[SEC. 725. The Commissioner is authorized to carry out, either directly or through grants or contracts, (1) innovation and development projects and activities of national significance which show promise of having a substantial impact in overcoming reading deficiencies in children, youths, and adults through incorporation into ongoing State and local educational systems throughout the Nation, and (2) dissemination of information related to such programs.

[Not to exceed $600,000 of any sums appropriated pursuant to subsection (a) of section 732 for the fiscal year 1976, and for the period from July 1, 1976 through September 30, 1976, may be used for carrying out this section.

[INEXPENSIVE BOOK DISTRIBUTION PROGRAM FOR READING MOTIVATION

[SEC. 726. (a) The Commissioner is authorized (1) to enter into a contract with a private nonprofit group or public agency (hereinafter in this section referred to as the "contractor"), which has as its primary purpose the motivation of children to learn to read, to support and promote the establishment of reading motivational programs which include the distribution of inexpensive books to students and (2) to pay the Federal share of the cost of such programs.

[(b) This contract shall provide that—

[(1) the contractor will enter into subcontracts with local private nonprofit groups or organizations or with public agencies (hereinafter referred to as "subcontractors") under which the subcontractors will agree to establish, operate, and provide the non-Federal share of the cost of reading motivational programs which include the distribution of books by gift, loan, or sale at a nominal price to children in preelementary, elementary, or secondary schools;

[(2) funds made available by the Commissioner to a contractor pursuant to any contract entered into under this section will be used to pay the Federal share of the cost of establishing and operating reading motivational programs as provided in paragraph (1);

[(3) the contractor will meet such other conditions and standards as the Commissioner determines to be necessary to assure the effectiveness of the programs authorized by this section and will provide technical assistance in furtherance of the purposes of this section.

[(c) The Commissioner shall make no payment of the Federal share of the cost of acquiring and distributing books pursuant to a contract authorized by this section unless he determines that the contractor or the subcontractor, as the case may be, has made arrangements with book publishers or distributors to obtain books at discounts at least as favorable as discounts that are customarily given by such publisher or distributor for book purchases made under similar circumstances in the absence of Federal assistance.

[(d) For purposes of this section—

[(1) the term "nonprofit", when used in connection with any organization, means an organization no part of the net earnings of which inures, or may lawfully inure, to the benefit of any private shareholder or individual;

[(2) the term "Federal share" means, with respect to the cost of books purchased by a local private nonprofit group, organization, or public agency for a program in a locality for distributing such books to schoolchildren in that locality, 50 per centum of the cost of that agency or group or organization for such books for such program;

[(3) the term "preelementary school" means a day or residential school which provides pre-elementary education, as determined under State law, except that such term does not include education for children who have not attained three years of age;

[(4) the term "elementary school" has the same meaning as provided in section 801(c) of the Elementary and Secondary Education Act of 1965; and

[(5) the term "secondary school" has the same meaning as provided in section 801(h) of the Elementary and Secondary Education Act of 1965.

[PART D—GENERAL PROVISIONS

[EVALUATION

[SEC. 731. (a) The Commissioner shall submit an evaluation report to the Committee on Labor and Public Welfare of the Senate and the Committee on Education and Labor of the House of Representatives not later than February 1, in each fiscal year ending prior to fiscal year 1979. Each such report shall—

[(1) contain a statement of specific and detailed objectives for the program assisted under the provisions of this title;

[(2) include a statement of the effectiveness of the program in meeting the stated objectives, measured through the end of the preceding fiscal year;

[(3) make recommendations with respect to any changes or additional legislation deemed necessary or desirable in carrying out the program;

[(4) contain a list identifying the principal analyses and studies supporting the major conclusions and recommendations contained in the report; and

[(5) contain an annual evaluation plan for the program through the ensuing fiscal year for which the budget was transmitted to Congress by the President, in accordance with section 201(a) of the Budget and Accounting Act, 1921.

[(b) From the sums appropriated pursuant to section 732 for any fiscal year, the Commissioner may reserve such amount, not in excess of 1 per centum of such sums, as he deems necessary for evaluation, by the Commissioner or by public or private nonprofit agencies, of programs assisted under this title.

[AUTHORIZATION OF APPROPRIATIONS

[SEC. 732. (a) There are authorized to be appropriated to carry out the provisions of parts A and B of this title $30,000,000 for the fiscal year ending June 30, 1975, $82,000,000 for the fiscal year ending June 30, 1976, $88,000,000 for the fiscal year ending June 30, 1977, and $93,000,000 for the fiscal year ending June 30, 1978.

[(b) There are authorized to be appropriated to carry out the provisions of section 721, relating to special emphasis projects, $15,000,000 for the fiscal year ending June 30, 1975, $20,000,000 for the fiscal year ending June 30, 1976, and $25,000,000 for each of the fiscal years ending June 30, 1977 and 1978.

[(c) There are authorized to be appropriated for the purpose of carrying out section 722, relating to reading training on public television, $3,000,000 for the fiscal year ending June 30, 1975. Sums appropriated pursuant to this subsection shall remain available for obligation and expenditure through the succeeding fiscal year.

[(d) There are authorized to be appropriated to carry out the provisions of section 723, relating to reading academies, $5,000,000 for the fiscal year ending June 30, 1975, $7,500,000 for the fiscal year ending June 30, 1976, and $10,000,000 for each of the fiscal years ending June 30, 1977 and 1978.

[(e) There are authorized to be appropriated to carry out the provisions of section 724, relating to State leadership and training projects, $6,400,000 each for the fiscal year ending September 30, 1977, and for the succeeding fiscal year.

[(f) There are authorized to be appropriated to carry out the provisions of section 725, relating to national impact reading programs, $800,000 each for the fiscal year ending September 30, 1977 and for the succeeding fiscal year.

[(g) There are authorized to be appropriated to carry out the provisions of section 726, relating to inexpensive book distribution programs for reading motivation, $4,000,000 for the fiscal year ending June 30, 1976, and $9,000,000 for each of the following two fiscal years.

[Under such conditions as the Commissioner determines to be appropriate, not to exceed 10 per centum of the amounts appropriated for each fiscal year shall be available for a contract from the Commissioner to the contractor designated under section 726 for technical assistance under subsection (b)(3) of section 726 to carry out the provisions of such section.

[ACCEPTANCE OF GIFTS

[SEC. 733. Notwithstanding the provisions of section 408(a)(3) of the General Education Provisions Act, the Commissioner may accept on behalf of the United States, gifts or donations made with or without conditions of services, money or property (real, personal, or mixed; tangible or intangible) made for any activities authorized to be carried out by such agency under the authority of this title.]

TITLE VIII—MISCELLANEOUS PROVISIONS

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PART D—OTHER MISCELLANEOUS PROVISIONS

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[ASSISTANCE TO STATES FOR STATE EQUALIZATION PLANS

[SEC. 842. (a)(1) Any State desiring to develop a plan for a program of financial assistance to local educational agencies in that State to assist such agencies in the provision of free public education may, upon application therefor, be reimbursed for the development or administration of such a plan in accordance with the provisions of this section. Each plan developed pursuant to, or which meets the requirements of, this section shall be submitted to the Commissioner not later than October 1, 1978, and shall, subject to the provisions of this section, be consistent with the guidelines developed pursuant to paragraph (3). Such plan shall be designed to implement a program of State aid for free public education—

[(A) which is consistent with such standards as may be required by the fourteenth article of amendment to the Constitution; and

[(B) the primary purpose of which is to achieve equality of educational opportunity for all children in attendance at the schools of the local educational agencies of the State.

[(2) The Commissioner shall develop guidelines defining the principles set forth in clauses (A) and (B) of paragraph (1). Not later than April 1, 1975, the Commissioner shall publish such guidelines in the Federal Register and submit such guidelines to the President of the Senate and the Speaker of the House of Representatives.

[(3) During the sixty-day period following such publication, the Commissioner shall provide interested parties with an opportunity to present views and make recommendations with respect to such guidelines. Not later than July 1, 1975, the Commissioner shall (A) republish such guidelines in the Federal Register, together with any amendments thereto as may be merited and (B) publish in the Federal Register a summary of the views and recommendations presented by interested parties under the preceding sentence, together with the comments of the Commissioner respecting such views and recommendations.

[(4)(A) The guidelines published in accordance with paragraph (3), together with any amendments, shall, not later than July 1, 1975, be submitted to the President of the Senate and the Speaker of the House of Representatives. If either the Senate or the House of Representatives adopts, prior to December 1, 1975, a resolution of disapproval of such guidelines, the Commissioner shall, prior to December 15, 1975, publish new guidelines. Such new guidelines shall take into consideration such views and policies as may be made in connection with such resolution and shall become effective thirty days after such publication.

[(B) A resolution of disapproval under this paragraph may be in the form of a resolution of either the Senate or the House of Representatives or such resolution may be in the form of a concurrent resolution of both Houses. If such a resolution of disapproval is in the form of a concurrent resolution, the new guidelines published in accordance with the second sentence of subparagraph (A) of this paragraph shall be consistent with such policies as may be established by such concurrent resolution.

[(C) If each of the Houses adopts a separate resolution with respect to guidelines submitted in accordance with this paragraph for any year and in connection therewith makes policy statements which differ substantially, then such differences may be resolved by the adoption of a concurrent resolution by both Houses. Any such concurrent resolution shall be deemed to be adopted in accordance with subparagraph (B).

[(b) Any State developing a plan pursuant to this section may reject any guidelines developed and published under subsection (a) of this section if such State, as a provision of its plan, states the reasons for each such rejection.

[(c)(1) Each State that develops a plan under this section shall be reimbursed for the reasonable amounts expended by the State in the development or administration of such a plan based upon the ratio of the population of that State to the population of all States except that no State shall receive less than $100,000 and no State shall receive more than $1,000,000.

[(2) For the purposes of this section the term "State" means the fifty States.]

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INDIAN EDUCATION ACT

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Part B—Special Programs and Projects To Improve Educational Opportunities for Indian Children

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SPECIAL EDUCATIONAL TRAINING PROGRAMS FOR TEACHERS OF INDIAN CHILDREN

Sec. 422. (a) * * *

* * * * * * *

(c) There is authorized to be appropriated $2,000,000 [for the fiscal year ending June 30, 1975, and for each of the three succeeding fiscal years] *for the fiscal year ending September 30, 1979, and for each of the four succeeding fiscal years* to carry out the provisions of this section.

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Part E—Miscellaneous Provisions

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DEFINITION

Sec. 453. For the purposes of this title, the term "Indian" means any individual who (1) is a member of a tribe, band, or other organized group of Indians, including those tribes, bands, or groups terminated since 1940 and those recognized now [or in the future] by the State in which they reside, or who is a descendant, in the first [or second] degree, of any such member, or (2) is considered by the Secretary of the Interior to be an Indian for any purpose, or (3) is an Eskimo or Aleut or other Alaska Native, or (4) is determined to be an Indian under regulations promulgated by the Commissioner, after consultation with the National Advisory Council on Indian Education, which regulations shall further define the term "Indian."

INDIAN ELEMENTARY AND SECONDARY SCHOOL ASSISTANCE ACT

* * * * * * *

DECLARATION OF POLICY

Sec. 302. (a) In recognition of the special educational *and culturally related academic* needs of Indian students in the United States, Congress hereby declares it to be the policy of the United States to provide financial assistance to local educational agencies to develop and carry out elementary and secondary school programs specially designed to meet these special educational [needs] *or culturally related academic needs, or both.*

* * * * * * *

GRANTS TO LOCAL EDUCATIONAL AGENCIES

Sec. 303. (a)(1) For the purpose of computing the amount to which a local educational agency is entitled under this title for any fiscal year ending prior to October 1, [1978] *1983*, the Commissioner shall determine the number of Indian children who were enrolled in the schools of a local educational agency, and for whom such agency provided free public education, during such fiscal year.

* * * * * * *

(c) *In addition to the sums appropriated for any fiscal year for grants to local educational agencies under this title, there is hereby authorized to be appropriated for any fiscal year an amount not in excess of 10 per centum of the amount appropriated for payments on the basis of entitlements computed under subsection (a) for that fiscal year, for the purpose of enabling the Commissioner to make grants on a competitive basis to local educational agencies to support demonstration projects and programs which are designed to plan for and improve education opportunities for Indian children, except that the Commissioner shall reserve a portion not to exceed 25 per centum of such funds* *to make grants for demonstration projects examining the special educational and culturally related academic needs that arise in school districts with high concentrations of Indian children.*

USES OF FEDERAL FUNDS

SEC. 304. Grants under this title may be used, in accordance with applications approved under section 305, for—

(1) planning for and taking other steps leading to the development of programs specifically designed to meet the special educational [needs] *or culturally related academic needs, or both,* of Indian children, including pilot projects designed to test the effectiveness of plans so developed; and

(2) the establishment, maintenance, and operation of programs, including, in accordance with special regulations of the Commissioner, minor remodeling of classroom or other space used for such programs and acquisition of necessary equipment, specially designed to meet the special educational [needs] *or culturally related academic needs, or both,* of Indian children.

APPLICATIONS FOR GRANTS; CONDITIONS FOR APPROVAL

SEC. 305. (a) * * *

(b) An application by a local educational agency or agencies for a grant under this title may be approved only if it is consistent with the applicable provisions of this title and—

(1) meets the requirements set forth in subsection (a);

(2) provides that the program or project for which application is made—

(A) will utilize the best available talents and resources (including persons from the Indian community) and will substantially increase the educational opportunities of Indian children in the area to be served by the applicant; and

(B) has been developed—

(i) in open consultation with parents of Indian children *(including persons acting in loco parentis other than school administrators or officials)*, teachers, and, where applicable, secondary school students, including public hearings at which such persons have had a full opportunity to understand the program for which assistance is being sought and to offer recommendations thereon, and

(ii) with the participation and approval of a committee composed of, and selected by, parents of children participating in the program *(including persons acting in loco parentis other than school administrators or officials)* for which assistance is sought, teachers, and, where applicable, secondary school students of which at least half the members shall be such parents;

(C) sets for such policies and procedures, *including the hiring of personnel,* as will insure that the program for which assistance is sought will be operated and evaluated in consultation with, and the involvement of, parents of the children and representatives of the area to be served, including the committee established for the purposes of clause (2)(B)(ii)[.]*;*

(3) provides that the parent committee formed pursuant to paragraph (2)(B)(ii) will adopt and abide by reasonable bylaws for the conduct of the program for which assistance is sought.

* * * * * * *

PAYMENTS

Sec. 306. (a) The Commissioner shall, subject to the provisions of section 307, from time to time pay to each local educational agency which has had an application approved under section 305, an amount equal to the amount *estimated to be* expended by such agency in carrying out activities under such application.

(b)(1) No payments shall be made under this title for any fiscal year to any local educational agency in a State which has taken into consideration payments under this title in determining the eligibility of such local educational agency in that State for State aid, or the amount of that aid, with respect to the free public education of children during that year or the preceding fiscal year.

(2) No payments shall be made under this title to any local educational agency for any fiscal year unless the State educational agency finds that the combined fiscal effort (as determined in accordance with regulations of the Commissioner) of that agency and the State with respect to the provision of free public education by that agency for the preceding fiscal year was not less than such combined fiscal effort for that purpose for the second preceding fiscal year.

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SECTION 497A OF THE HIGHER EDUCATION ACT OF 1965

* * * * * * *

TITLE IV—STUDENT ASSISTANCE

* * * * * * *

Part F—General Provisions Relating to Student Assistance Programs

Subpart 1—General Provisions

* * * * * * *

FISCAL ELIGIBILITY OF INSTITUTIONS

Sec. 497A. (a) Notwithstanding any other provisions of this title, [or of section 434(c) of the General Education Provisions Act,] the Commissioner is authorized to prescribe such regulations as may be necessary to provide for—

(1) a fiscal audit of an eligible institution with regard to any funds obtained by it under this title or obtained from a student who has a loan insured or guaranteed by the Commissioner under this title;

(2) the establishment of reasonable standards of financial responsibility and appropriate institutional capability for the administration by an eligible institution of a program of student financial aid under this title;

(3) the establishment by each eligible institution under part B responsible for furnishing to the lender the statement required by section 428(a)(2)(A)(i), of policies and procedures by which the latest known address and enrollment status of any student who has had a loan insured under this part and who has either formally terminated his enrollment, or failed to re-enroll on at least a half-time basis, at such institution, shall be furnished either to the holder (or if unknown, the insurer) of the note, not later than sixty days after such termination or failure to re-enroll; and

(4) the limitation, suspension or termination of the eligibility for any program under this title of any otherwise eligible institution, whenever the Commissioner has determined, after reasonable notice and opportunity for hearing on the record, that such institution has violated or failed to carry out any provision of this title or any regulation prescribed under this title, except that no period of suspension under this section shall exceed sixty days unless the institution and the Commissioner agree to an extension or unless limitation or termination proceedings are initiated by the Commissioner within that period of time.

* * * * * * *

[1]SPECIAL PROJECTS ACT

[AN ACT To establish a National Advisory Committee on Education.

[*Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled*, That this Act may be cited as the "Special Projects Act".

[PURPOSE

[SEC. 2. It is the purpose of this Act to authorize the Commissioner of Education (hereinafter referred to as the "Commissioner") to carry out special projects—

[(1) to experiment with new educational and administrative methods, techniques, and practices;

[(2) to meet special or unique educational needs or problems; and

[(3) to place special emphasis on national education priorities.

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[1] Repealed effective October 1, 1979.

[CONTRACTING AUTHORITY

[SEC. 3. (a) The Commissioner is authorized, during the period beginning July 1, 1975, and ending September 30, 1978, to make contracts with public and private agencies, organizations, associations, institutions, and with individuals in order to carry out the purposes of this Act as set forth in section 2.

[(b) In exercising his authority under this section, the Commissioner shall comply with such priorities and preferences as may be expressly provided by law, with respect to this section.

[APPROPRIATIONS

[SEC. 4. (a)(1) In order to enable the Commissioner to make contracts under section 3, there is authorized, subject to subsection (b), to be appropriated to the Office of Education $200,000,000 for the fiscal year ending June 30, 1976, and each of the two succeeding fiscal years.

[(2) Sums appropriated pursuant to paragraph (1) shall, notwithstanding any other provisions of law, unless enacted in express limitation of this paragraph, remain available until expended.

[(b)(1) Not later than March 1 of each year, the Commissioner shall submit to the Committee on Education and Labor of the House of Representatives and the Committee on Labor and Public Welfare of the Senate a plan in accordance with which the Commissioner has determined to expend funds to be appropriated for the succeeding fiscal year. Such plan shall be accompanied by a report describing each contract made during the calendar year preceding that fiscal year under the authority of this Act involving an expenditure in excess of $100,000.

[(2)(A) The funds appropriated pursuant to subsection (a) for any fiscal year shall be expended in accordance with the plan submitted for that year pursuant to paragraph (1) unless prior to sixty days after the submission of such plan, either the Committee on Education and Labor of the House of Representatives or the Committee on Labor and Public Welfare of the Senate adopts a resolution disapproving such plan.

[(B) If either or both such committees adopts a resolution of disapproval as provided in subparagraph (A), the Commissioner shall, not later than fifteen days after the adoption of any such resolution, submit a new plan in accordance with paragraph (1) and subparagraph (A).]

SECTION 301 OF THE NATIONAL DEFENSE EDUCATION ACT OF 1958

APPROPRIATIONS AUTHORIZED

SEC. 301. There are hereby authorized to be appropriated $70,000,000 for the fiscal year ending June 30, 1959, and for each of the five succeeding fiscal years, $90,000,000 for the fiscal year ending June 30, 1965, and $100,000,000 for the fiscal year ending June 30, 1966, and for the succeeding fiscal year, $110,000,000 for each of the fiscal years ending June 30, 1968, and June 30, 1969, $120,500,000 for the fiscal year ending June 30 1970, and $130,500,000 for each of the fiscal years ending prior to September 30, [1979] *1983* for (1) making payments to State educational agencies under this title for the acquisition of equipment and for minor remodeling, described in paragraph (1) of section 303(a), and (2) making loans authorized in section 305. There are also authorized to be appropriated $5,000,000 for the fiscal year ending June 30, 1959, and for each of the five succeeding fiscal years, and $10,000,000 for each of the succeeding fiscal years ending prior to October 1, 1978 for making payments to State educational agencies under this part to carry out the programs described in paragraph (5) of section 303(a). Notwithstanding the preceding two sentences, no funds are authorized to be appropriated for obligation during any year for which funds are available for obligation for carrying out part B of title IV of the Elementary and Secondary Education Act of 1965.

PART D OF TITLE III OF THE EDUCATION AMENDMENTS OF 1976

TITLE III—EXTENSIONS AND REVISIONS OF OTHER EDUCATION PROGRAMS

* * * * * * *

[PART D—GUIDANCE AND COUNSELING

[FINDINGS

[SEC. 341. The Congress finds that—

[(1) guidance and counseling activities are an essential component to assure success in achieving the goals of many education programs;

[(2) lack of coordination among guidance and counseling activities supported jointly or separately by Federal programs and by State and local programs has resulted in an underutilization of resources available for such activities; and

[(3) increased and improved preparation of education professionals is needed in guidance and counseling, including administration of guidance and counseling programs at the State and local levels, with special emphasis on inservice training which takes educational professionals into the workplaces of business and industry, the professions, and other occupational pursuits, and that increased and improved use of individuals employed in such pursuits are needed for effective guidance and counseling programs, including (A) bringing persons employed in such pursuits into schools, and (B) bringing students into such workplaces for observation of, and participation in, such pursuits, in order to acquaint the students with the nature of the work.

[APPROPRIATIONS AUTHORIZED

[SEC. 342. (a) There are authorized to be appropriated $20,000,000 for each of the fiscal years 1978 and 1979, to carry out the provisions of this part.

[(b)(1) There are authorized to be appropriated $3,000,000 for fiscal year 1977, for purposes of grants to States made by the Commissioner for programs, projects, and leadership activities designed to expand and strengthen counseling and guidance services in elementary and secondary schools.

[(2) No sums are authorized to be appropriated under section 401 (a) of the Elementary and Secondary Education Act of 1965 for fiscal year 1977, for the purpose of making grants under part B (Libraries and Learning Resources) of title IV of such Act, for such fiscal year which represent the amount authorized to be appropriated under paragraph (1) of this subsection.

[(3)(A) The Commissioner shall allot the amounts appropriated under this subsection among Guam, American Samoa, the Virgin Islands, and the Trust Territory of the Pacific Islands according to their respective needs for assistance under this subsection. In addition, he shall allot from such amounts to (i) the Secretary of the Interior the amounts necessary for the programs, projects, and activities authorized by this subsection for children and teachers in elementary and secondary schools operated for Indian children by the Department of the Interior; and (ii) the Secretary of Defense the amounts necessary for the programs, projects, and activities authorized by this subsection for children and teachers in the overseas dependents schools of the Department of Defense. The terms upon which payment for such purposes shall be made to the Secretary of the Interior and the Secretary of Defense shall be determined pursuant to such criteria as the Commissioner determines will best carry out the purposes of this subsection.

[(B) From the amounts appropriated to carry out this subsection, the Commissioner shall allot to each State from such amounts an amount which bears the same ratio to such amounts as the number of children aged five to seventeen, inclusive, in the State bears to the number of such children in all the States. For the purposes of this subparagraph, the term "State" shall not include Guam, American Samoa, the Virgin Islands, and the Trust Territory of the Pacific Islands. The number of children aged five to seventeen, inclusive, in a State and in all the States shall be determined by the Commissioner on the basis of the most recent satisfactory data available to him.

[(C) The amount of any State's allotment under subparagraph (A) or subparagraph (B) to carry out this subsection which the Commissioner determines will not be required to carry out this subsection shall be available for reallotment from time to time, on such dates as the Commissioner may fix, to other States in proportion to the original allotment to such States under subparagraph (A) or subparagraph (B) but with such proportionate amount for any of such other States being reduced to the extent it exceeds the sum the Commissioner estimates such State needs and will be able to use. The total of such reductions shall be similarly realloted among the States whose pro-

portionate amounts were not so reduced. Any amounts realloted to a State under this subparagraph from funds appropriated under this subsection shall be deemed a part of its allotment under subparagraph (A) or subparagraph (B).

[ADMINISTRATION

[SEC. 343. (a) The Commissioner shall establish or designate an administrative unit within the Education Division for purposes of—

[(1) carrying out provisions of this part;

[(2) providing information regarding guidance and counseling as a profession, guidance and counseling activities of the Federal Government, and, to the extent practicable, activities of State and local programs of guidance and counseling; and

[(3) advising the Commissioner on coordinating guidance and counseling activities included in all programs which he is authorized to carry out, and, to the extent he deems practicable, how such activities may be coordinated with other programs of the Federal Government and State and local guidance and counseling programs.

[(b) The Commissioner may reserve an amount not to exceed 5 per centum of the sums appropriated under this part to carry out the provisions of this section.

[PROGRAM AUTHORIZED

[SEC. 344. (a) The Commissioner is authorized, on a competitive basis, to enter into contracts and make grants to State and local educational agencies, to institutions of higher education, and to private nonprofit organizations to assist them in conducting institutes, work shops, and seminars designed to improve the professional guidance qualifications of teachers and counselors in State and local educational agencies and nonpublic elementary and secondary school systems, including opportunities for teachers and guidance counselors in such agencies and systems to obtain experience in business and industry, the professions, and other occupational pursuits, and including, for the purpose of such improvement, such programs, services, or activities which bring individuals with experience in such pursuits into schools as counselors or advisors for students, and which bring students into the workplaces of such pursuits to acquaint students with the nature of the work and to provide training for supervisory and technical personnel in such agencies and systems having responsibilities for guidance and counseling, and to improve supervisory services in the field of guidance and counseling.

[(b) The Commissioner is authorized to make grants to States to assist them in carrying out programs to coordinate new and existing programs of guidance and counseling in the States.]

ADDITIONAL VIEWS BY HON. JAMES M. JEFFORDS ON H.R. 15

The Education and Labor Committee has devoted a great deal of time and energy to the consideration of this reauthorization of the Elementary and Secondary Education Act. Of particular note is the Committee's consideration of the issues surrounding the formula by which funds are distributed under the act. The committee's support for the Ford/Jeffords amendment for the distribution of fund increases under Part A (basic grants to LEA's) of the act means that the distribution of funds under the Act will increasingly reflect the latest knowledge of where poor children live in this country. In particular, the committee has recognized the importance of using the most recent available data for estimating population, in this case the 1976 Survey of Income and Education (SIE), which is acknowledged to be more accurate than the now badly outdated 1970 Census. The Committee's endorsement of using the SIE data means that we have recognized the need to direct funds where the need is now, rather than where the need was in 1970.

The committee also acted out of concern for the needs of poor children in passing the Administration's "concentration" provision for additional funding for certain areas. However, I strongly believe the committee's concern to have been at least partially misdirected in this case. As passed, the concentration fund will be distributed to counties which have high concentrations or numbers of eligible children, as measured by the 1974 formula. While the concentration proposal was originally billed as an "urban/rural" provision, the committee formula has the ironic consequence of completely missing many rural concentrations of poverty.

The goals of this legislation can be advanced by providing for the needs of small, rural States. Because data limitations have surfaced which indicate that many small States would be unjustly damaged by the committee-adopted formula for distributing funds under the concentration provision. In particular, rural States with small counties or sparse populations are not going to be served adequately by the legislation as now drafted. Although the majority of school districts in a given county may be above the 20 percent concentration threshold, the concentration of eligible children in the county as a whole may not be above 20 percent. Such a situation can arise when even one moderately large LEA in a county has a relatively low concentration of eligible children. Thus, many rural districts of great need may be discriminated against by this legislation. The targetting provision was originally billed as a "rural/urban" initiative, but the committee's current language does not provide for the needs of small school districts located in small rural States.

A minimum grant entitlement for small, poor States would be a useful and fair way to overcome the automatic problems imposed by this population-based formula. There is ample precedent for such a provision, including Title I of the Vocational Rehabilitation Act of

1973, which provides for a one-fourth of 1 percent minimum to each small State. Also, the Clean Waters Act of 1977 (Public Law 95-217) provides a minimum of one-half of 1 percent to total allotment under subsection C of title 33, section 1287. Other precedents exist, including the provision in this Act for State administration funds.

JAMES M. JEFFORDS.

ADDITIONAL VIEWS BY HON. JOHN BUCHANAN ON H.R. 15

I join my colleagues in supporting this bill and believe that it will be instrumental in improving the quality of elementary and secondary education in this Nation.

While supporting the bill as reported, I do have strong reservations about using data received from the Bureau of the Census Survey of Income and Education (S.I.E.) for distributing new appropriations in excess of fiscal year 1978 appropriations. I will not, however, attempt on the House floor to change the formula. Since to reopen the Title I formula issue could endanger the balanced bill the committee has reported and would unnecessarily excite regional chauvinism in education.

Testimony received during the hearings on H.R. 15 constrains me, however, to briefly discuss the appropriateness of using S.I.E. data. The Department of Health, Education, and Welfare recommended that S.I.E. statistics not be used because "there is a 50-50 chance that 2 or 3 States may be off by 20 percent or more and there is 1 chance in 20 that 4 or 5 States may be estimated too low by as much as 20 percent under the S.I.E. counts." Testimony by the Bureau of the Census noted that about 15 States would show errors between 10 and 20 percent and about two States would have errors larger than 20 percent. The S.I.E. found that Alabama had nearly a 50 percent decline in poverty children since the 1970 census—a figure not supported by regression analysis of more recent surveys and observations of informed analysts within the State.

While the S.I.E. estimate for Alabama may be written off as an aberrant statistical phenomenon that does not reflect the poverty condition in Alabama, I believe there are more basic problems with using the S.I.E. data nationwide. The S.I.E. was characteristically an urban survey. Poverty is basically a rural problem in the South and an urban problem in the Northeast and Northcentral States. For example, Alabama has fourteen counties where 50 percent of the children are below the poverty level; only 3 of the 14 were included in the S.I.E. In the South, the urban areas are generally more prosperous, therefore, the results do not reflect regional differences in poverty.

Again, however, I urge my colleagues to pass the title I formula as reported by the committee. Although there are significant problems with the formula, to restructure it on the floor could well result in an even less equitable product.

JOHN BUCHANAN.

SUPPLEMENTAL VIEWS BY HON. ALBERT H. QUIE ON H.R. 15

Why is it that only 23 percent of all children in grades 2 to 6 receiving title I services are both poor and low achieving while 35 percent are neither poor nor low achieving?

Is it fair for a student in a Montgomery County, Md., school to be in a "target" school where 5 percent of the children are poor while a child in Garrett County, Md., may not be in a "target" school unless the number of low income children is more than 26.9 percent?

Why is it that 92 schools in the Los Angeles City School System are not "target" schools even though they have higher proportions of low achieving students than schools which are target schools?

The answer to all of these questions is related to the notion that in order to find students who are low achievers we should first determine what their family income is and then only provide assistance if there are clusters of those students.

The poor student attending the "wrong" school or the student with serious educational problems attending a nontarget school are out of luck. What a way to make educational policy.

When Title I of the Elementary and Secondary Education Act was first passed in 1965, the only data that anyone could both find and understand was census and welfare information. Thirteen years later we are only just beginning to take the first step away from the use of those surrogate measures.

Alas, the steps are not big enough.

In H.R. 15 we have taken a tiny step forward by allowing a school district to rank schools by both low income and low achivement, providing that first priority goes to schools with more low income students and the number of schools selected does not exceed the number which would have been selected if only low income were used.

Doesn't seem very revolutionary, does it? Well, it's not. But at least it's a step in the right direction.

How much longer will we continue to perpetuate the myth that low income is equated with stupidity?

Ever since 1965 under the law once the State determines target schools based on low income, then income becomes irrelevant and schools only look at educational need. A very sensible notion.

However, in order to get to the school the law requires the State to look only at low income and welfare statistics instead of saying to the school district, "Put your Federal dollars into the schools that need it most." Why not extend the theory (and practice) that works so well at the school building level to the school district. If that works well, as I am certain it will, then we could give that same direction to the State.

Why on earth do we persist in believing that we can substitute the heavy hand of the Federal Government for the first-hand knowledge of local school officials?

Why have we progressed so far in returning power to the local level in such areas as health care, CETA, revenue sharing, and community development while still retaining heavy Federal domination in the field of education—a field which is constitutionally reserved to the States?

If appropriations were sufficient, Title I could go to nearly all schools. Since we are still several billion dollars from that goal, let us be certain that the dollars which are there are being invested in the children who are most in need, not squandered in schools where the need is much less and the program ends up with an enrollment that nationally 35 percent are neither economically nor educationally disadvantaged.

I do believe that the first priority in title I should go to low income students who are educationally deprived. The next priority should be those students who are low achieving regardless of family income.

When H.R. 15 is considered in the House an amendment may be accepted along the lines of that described above.

Finally, for the benefit of my colleagues, I insert some brief excerpts from a paper commissioned by the National Institute of Education on this subject.

ALBERT H. QUIE.

EXCERPTS FROM "THE RELATIONSHIP BETWEEN POVERTY AND ACHIEVEMENT"

(Alison Wolf, Compensatory Education Study Staff, National Institute of Education, December 1977)

INDIVIDUAL-LEVEL RELATIONSHIPS

Studies using national samples of students are generally consistent in their results and show achievement and family income to be correlated at about the 0.3 level. Many poor children are not low-achieving and many low-achievers are not poor.

These figures are national averages. When students in particular districts are studied the relationship between their family income and their attainment is often quite different. In NIE's demonstration districts, the correlation between family income and achievement ranged from a high of .46 to a low of .03. In one of the districts, 66 percent of poor children read a year or more below grade level. In another, the figure was 30 percent.

There were corresponding differences in the percentage of a district's of poor children who were also low-achieving. The average figure was 46 percent but among districts it ranged from 30 percent to 60 percent. Similarly, districts varied in the degree to which poor children were more likely than nonpoor children to be low-achievers. On average poor children were 60 percent more likely than other students to be in the low-achieving group; but the figure ranged from 90 percent to 10 percent. This compares with the Participation Study's finding that nationally, poor children were 90 percent more, or almost twice as likely to be low-achieving than nonpoor children. The results from the demonstration districts thus show clearly that national figures do not necessarily apply to particular districts, and that the strength of the relationship between poverty and achievement differs considerably among communities.

Father's occupation or education, are somewhat more closely related to achievement when taken on their own than is poverty.

On the other hand, income is not as good an indication of future academic problems as is low achievement. At any grade or age level, the children most likely to have academic difficulties in the future are those whose initial achievement levels, and not their family incomes, are lowest.

SCHOOL-LEVEL RELATIONSHIPS

NIE also examined the relationship between the proportion of a school's pupils in poverty and its average achievement level. The results indicate that in many large cities, the poorest schools are most often also the lowest achieving. Correlations are generally as high as .8 or .9. In other districts, however, schools' poverty and achievement are far less closely related, and correlations are sometimes very low.

We should emphasize that a high correlation at the school level does not mean that all poor pupils or low-achievers are in the poorest schools. . . . In some districts, most poor and low-achieving pupils are concentrated in a limited number of schools. In others they are quite evenly distributed across the district.

Thus, it seems likely that in the many school districts where economic differences between neighborhoods are less extreme than in the cities, or in cases where desegregation has spread pupils from poor areas among the schools, a school's poverty and its achievement are not very closely related.

Thus, data from both the Anchor Test Study and the Study of the Sustaining Effects of Compensatory Education show that the majority of schools are marked by neither very high poverty nor very low achievement. In the Anchor Test data about 81 percent of schools had fewer than 20 percent of their pupils from families earning less than $3,000, and 77 percent had fewer than 20 percent scoring below the 15th percentile.

The large majority of poor and low-achieving pupils are not, however, necessarily concentrated in schools of extreme poverty and low-achievement. On the contrary, many may be scattered among the large number of other schools with less disadvantaged student bodies. The correlational data imply that this is especially likely in districts where the characters of school attendance areas are not markedly dissimilar, or where desegregation has created new attendance patterns.

DISTRICT-LEVEL RELATIONSHIPS

The relationship between the proportion of a district's students who are low-achieving and the proportion of its children in poverty varies markedly from State to State. In some it is fairly close, with correlations going as high as .6. In others, there is virtually no relationship. The same is true for other social indicators, such as the percentage of female-headed or welfare families in a district, or whether the district is urban, suburban, or rural. In some states, these characteristics are clearly correlated with district achievement; in others, no such relationship is apparent.

The results also showed that either median income or average years of education was more strongly correlated with achievement than was the percentage of children in poverty.

However, results from other states from which NIE was able to obtain data suggest that lower levels of association between achievement and such social measures may also be common. For example, in Iowa, education variables, welfare counts, the percentage of broken homes, and poverty figures all failed to show significant correlations with districts' percentages of low achievers. In Alabama, the percentage of female-headed families showed one of the strongest relationships to achievement and the percent of families on welfare one of the weakest: in Georgia, the situation was reversed. When data were pooled from the 9 States for which this was possible, no single variable showed a correlation higher than .27. At the national level, no single measure or index of poverty and other social indicators is likely to show a very high correlation with district achievement.

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